# UNITED STATES DISTRICT COURT
## DISTRICT OF RHODE ISLAND

GEORGE GUINDON, BARBARA GUINDON, Individually :
BARBARA GUINDON, as Mother and Next Friend to ERICA :
GUINDON, minor; TAMMY AYER, as Guardian and Next Friend:
to KAYLA MARIE DOROTHY ABBENANTE AYER, minor :
LOUIS ROSSI, as Administrator of the Estate of JOSEPH :
ROSSI; CHRISTOPHER SCOT; JULIANNA GIAVEN, : CA 03 335 L
ERIC MALARDO; MICHELLE MALARDO; :
RICHARD SANETTI; PATRICIA SANETTI; :
MICHELLE SPENCE, Individually, MICHELLE SPENCE, as :
Mother and Next of Friend of Hailey Spence, minor; :
CATHERINE CARIGNAN, EDWARD CORBETT, JR. :
as Administrator of the Estate of EDWARD CORBETT, III; :
PAUL AND BETTY ROE, Individually, PAUL AND BETTY :
ROE, as Co-Administrators of the Estate of LORI K. DURANTE; :
DANIEL DAVIDSON; and STEPHEN BRUNO; :
Plaintiffs :
:
V. :
:
AMERICAN FOAM CORPORATION; FOAMEX INTER- :
NATIONAL; BARRY H.WARNER; TRITON REALTY :
LIMITED PARTNERSHIP; JEFFREY DERDERIAN; MICHAEL :
DERDERIAN; DERCO, LLC; MANIC MUSIC MANAGEMENT,:
INC.; JACK RUSSELL, MARK KENDALL; DAVID FILICE; :
ERIC POWERS; DANIEL BICHELE; PAUL WOOLNOUGH; :
KNIGHT RECORDS, INC.; ANHEUSER-BUSCH, INC. :
INC.; MCLAUGHLIN & MORAN, INC.; LUNA TECH, INC.; :
LUNA TECH PYROTECHNIC GMBH; CLEAR CHANNEL :
COMMUNICATIONS INC., d/b/a WHJY-FM; MOTIVA :
ENTERPRISES, LLC; SHELL OILCOMPANY; TOWN OF :
WEST WARWICK, DENNIS LAROCQUE, STATE OF :
RHODE ISLAND and IRVING J. OWENS. :
Defendants :
:

## COMPLAINT

## JURISDICTION AND VENUE

1. The plaintiffs allege claims in negligence, product liability, wrongful death, and loss of consortium.

2. Jurisdiction in this Court is based upon diversity of citizenship, pursuant to 28 U.S.C. 1322(a)(1). The amount in controversy exceeds $75,000.

3. Jurisdiction in this Court may also be based upon 28 U.S.C. 1369, Multiparty Multiforum Jurisdiction.

## PARTIES

**Plaintiffs**

4. The plaintiff, George Guindon, is an individual who at all times relevant hereto, lived in Coventry, Rhode Island. Mr. Guindon was injured as a patron of The Station night-club on February 20, 2003, when the building caught fire and burned to the ground following the use of pyrotechnics by a band performing within the club.

5. The plaintiff, Barbara Guindon, individually; Erica Guindon, a minor, by and through her mother and next friend, Barbara Guindon; are individuals who at all times relevant hereto lived in Coventry, Rhode Island. Mr. Guindon was an injured patron of The Station night-club on February 20, 2003, when the building caught fire and burned to the ground following the use of pyrotechnics by a band performing within the club.

6. The plaintiffs, Estate of Tina Marie Ayer, by and through Tammy Ayer, Administratrix; Kayla Marie Dorothy Abbenante Ayer, a minor, by and through her aunt and next friend, Tammy Ayer; are individuals who at all times relevant hereto lived in Bristol, Rhode Island. Ms. Tina Ayer was a patron of The Station night-club on February 20, 2003, when the

building caught fire and burned to the ground following the use of pyrotechnics by a band performing within the club. Ms. Tammy Ayer's appointment as Administratrix of the plaintiff Estate by the Warwick Probate Court is pending.

7. The plaintiffs, Estate of Joseph Edward Rossi, by and through Louis Rossi, Administrator; are individuals who at all times relevant hereto lived in Pawtucket, Rhode Island. Mr. Rossi was a patron of The Station night-club on February 20, 2003, when the building caught fire and burned to the ground following the use of pyrotechnics by a band performing within the club. Mr. Louis Rossi's appointment as Administrator of the plaintiff Estate by the Pawtucket Probate Court is pending.

8. The plaintiff, Christopher Scott, is an individual who at all times relevant hereto, lived in West Warwick, Rhode Island. Mr. Scott was injured as a patron of The Station night-club on February 20, 2003, when the building caught fire and burned to the ground following the use of pyrotechnics by a band performing within the club.

9. The plaintiff, Julianna Giaven, is an individual who at all times relevant hereto, lived in West Warwick, Rhode Island. Ms. Giaven was injured as a patron of The Station night-club on February 20, 2003, when the building caught fire and burned to the ground following the use of pyrotechnics by a band performing within the club.

10. The plaintiff, Stephen J. Bruno, is an individual who at all times relevant hereto, lived in Cranston, Rhode Island. Mr. Bruno was injured as a patron of The Station night-club on February 20, 2003, when the building caught fire and burned to the ground following the use of pyrotechnics by a band performing within the club.

11. The plaintiff, Eric Malardo, is an individual who at all times relevant hereto, lived in Coventry, Rhode Island. Mr. Malardo was injured as a patron of The Station night-club on February 20, 2003, when the building caught fire and burned to the ground following the use of pyrotechnics by a band performing within the club.

12. The plaintiff, Michelle Malardo, is an individual who at all times relevant hereto, lived in Coventry, Rhode Island. Ms. Malardo was injured as a patron of The Station night-club on February 20, 2003, when the building caught fire and burned to the ground following the use of pyrotechnics by a band performing within the club.

13. The plaintiff, Richard Sanetti, is an individual who at all times relevant hereto, lived in Coventry, Rhode Island. Mr. Sanetti was injured as a patron of The Station night-club on February 20, 2003, when the building caught fire and burned to the ground following the use of pyrotechnics by a band performing within the club.

14. The plaintiff, Patricia Sanetti, is an individual who at all times relevant hereto, lived in Coventry, Rhode Island. Ms. Sanetti is the wife of Richard Senetti who was injured as a patron of The Station night-club on February 20, 2003, when the building caught fire and burned to the ground following the use of pyrotechnics by a band performing within the club.

15. The plaintiff, Michelle Spence, is an individual, Hailey Spence, a minor, by and through her mother and next friend, Michelle Spence; are individuals who at all times relevant hereto lived in Lincoln, Rhode Island. Ms. Spence was an injured patron of The Station night-club on February 20, 2003, when the building caught fire and burned to the ground following the use of pyrotechnics by a band performing within the club.

16. The plaintiff, Catherine Carignan, is an individual who at all times relevant hereto, lived in Coventry, Rhode Island. Ms. Carignan was injured as a patron of The Station night-club on February 20, 2003, when the building caught fire and burned to the ground following the use of pyrotechnics by a band performing within the club.

17. The plaintiffs, Estate of Edward Corbett, III, by and through Edward Corbett, Jr., Administrator, are individuals, and at all times relevant hereto, Edward Corbett, III, lived in West Warwick, Rhode Island, and Edward Corbett, Jr., is a resident of Florida. Mr. Corbett, III was a patron of The Station night-club on February 20, 2003, when the building caught fire and burned to the ground following the use of pyrotechnics by a band performing within the club. Mr. Corbett's appointment as Administrator of the plaintiff's Estate is pending in a Florida Probate Court.

18. The plaintiffs, Estate of Lori K. Durante, by and through Paul and Betty Roe, as Co-Administrators, are individuals who at all times relevant hereto lived in North Kingstown, Rhode Island. Ms. Durante was a patron of The Station night-club on February 20, 2003, when the building caught fire and burned to the ground following the use of pyrotechnics by a band performing within the club. Mr. and Mrs. Roe's appointment Co-Administrators of the plaintiff Estate by the North Kingstown Probate Court is pending.

19. The plaintiff, Daniel Davidson, is an individual who at all times relevant hereto, lived in Wyoming, Rhode Island. Mr. Davidson was injured as a patron of The Station night-club on February 20, 2003, when the building caught fire and burned to the ground following the use of pyrotechnics by a band performing within the club.

**Defendants**

20. The defendant American Foam Corporation is a corporation organized under the laws of the State of Rhode Island with a principal place of business in Johnston, Rhode Island, and manufactured, sold and/or installed and placed into the stream of commerce the sound-proofing foam insulation to the owners of The Station night-club.

21. The defendant, "Foamex International", manufacturer of sound proofing foam, is a corporation doing business under virtue of the laws of the State of Pennsylvania, with a principle place of business located in Linwood, Pennsylvania.

22. The defendant Barry H. Warner is a resident of West Warwick, Rhode Island and upon information and belief, sold the said sound-proofing foam insulation to the defendants Jeffery Derderian, Michael Derderian, and/or DERCO, d/b/a The Station.

23. The defendant Triton Realty Limited Partnership is a limited partnership organized under the laws of the State of Rhode Island and owner of The Station night-club property. The defendant Triton Realty, Inc. is a Rhode Island Corporation and subsidiary of Triton Realty Limited Partnership, and either individually or jointly owned the property where the former Station stood and leased the property despite its dangerous and hazardous condition.

24. The defendant Jeffrey Derderian is a resident of the Town of Narragansett, State of Rhode Island, and a part owner of DERCO, LLC and the former Station night-club.

25. The defendant Michael Derderian is a resident of Saunderstown, Rhode Island, and a part owner of DERCO, d/b/a the former Station night-club.

26. The defendant DERCO, d/b/a The Station is a corporation organized under the laws of the State of Rhode Island and has its principal place of business in West Warwick, Rhode Island.

DERCO, d/b/a The Station is owned by Jeffrey Derderian and Michael Derderian, whose principal business was the operation of the former Station night-club.

27. The defendant Station night-club was a "Class C" venue under the laws of the state of Rhode Island, and was a musical venue that featured national and local music bands. As a Class C venue, the club's capacity was limited to 300 persons as provided in its license.

28. The defendant Manic Music Management, Inc. is, upon information and belief, a corporation organized under the laws of the State of California, and defendant Paul Woolnough is a resident of the State of California and the principal of Manic Music Management.

29. The defendant Jack Russell is a resident of the State of California and a member of the band Great White, and was so on February 20, 2003.

30. The defendant Mark Kendall is a resident of the State of California and a member of the band Great White, and was so on February 20, 2003.

31. The defendant David Filice is a resident of the State of California and a member of the band Great White, and was so on February 20, 2003.

32. The defendant Eric Powers is a resident of the State of California and a member of the band Great White, and was so on February 20, 2003.

33. The defendant Daniel Bichiele is a resident of the State of California and tour manager for the band Great White, and was so on February 20, 2003.

34. The defendant Paul Woolnough is a resident of the State of California and the principal of Manic Music Management and the defendant Knight Records, Inc.

35. The defendant Knight Records, Inc. is, upon information and belief, a corporation organized under the laws of the State of California and is the record company for the band Great White.

36. The defendant Anheuser-Busch, Inc. is a corporation organized under the laws of the State of Delaware with a principal place of business in St. Louis, Missouri, and was a sponsor of the Great White concert at The Station on February 20, 2003.

37. The defendant McLaughlin & Moran, Inc. is a corporation organized under the laws of the State of Rhode Island with a principal place of business in Cranston, Rhode Island, and was a sponsor of the Great White concert at The Station on February 20, 2003.

38. The defendant WHJY-FM, a corporation or other entity organized under the laws of the State of Rhode Island with a principal place of business in East Providence, Rhode Island, is a subsidiary of the defendant Clear Channel Communications, Inc., and was a sponsor of the Great White concert at The Station on February 20, 2003.

39. The defendant Clear Channel Communications, Inc., is a corporation organized under the laws of the State of Texas with a principal place of business in San Antonio Texas and owner of the radio station that was a sponsor of the Great White concert at The Station on February 20, 2003.

40. The defendant Luna Tech, Inc. is upon information and belief a corporation organized under the laws of the state of Alabama with a principal place of business in the City of Owens Cross Rocks, State of Alabama, and manufactured the pyrotechnics used by the band Great White at The Station on February 20, 2003. Luna Tech Inc. is a subsidiary of the defendant Luna

Tech Pyrotechnic, GMBH, an organization formed under the laws of Germany with a principal place of business in Ascheffel, Germany.

41. The defendant Motiva Enterprises, LLC, a corporation or other entity organized under the laws of the State of Texas with a principal place of business in Houston, Texas, is a subsidiary of the defendant Shell Oil Company, and was a sponsor of the Great White concert at The Station on February 20, 2003.

42. The defendant Shell Oil Company, a corporation or other entity organized under the laws of the State of Delaware with a principal place of business in Houston, Texas, was a sponsor of the Great White concert at The Station on February 20, 2003, through its subsidiary, Motiva Enterprises, LLC.

43. The defendant, Town of West Warwick, is a municipal corporation organized and existing under the laws of the State of Rhode Island. Jurisdiction against the Town of West Warwick is consistent with Rhode Island General Laws 9-31-1 which abrogated the Doctrine of Sovereign Immunity. Jurisdiction against the Town of West Warwick is also consistent with Rhode Island General Laws Sections 9-31-2 and 9-31-3.

44. The defendant, Dennis Larocque, Fire Inspector for the own of West Warwick, is responsible for promulgation and enforcement of fire safety laws in the Town of West Warwick.

45. The defendant, State of Rhode Island, through its Fire Marshal, defendant, Irving J. Owens, is responsible for promulgation and enforcement of fire safety laws in the State of Rhode Island.

## ALLEGATIONS COMMON TO ALL COUNTS

46. At some point prior to February 20, 2003, the defendants Jeffrey Derderian, Michael Derderian, and/or DERCO, d/b/a The Station purchased from the defendants American Foam Corp. and/or Barry H. Warner a quantity of foam insulation with the intent to use same as sound-proofing around the stage of the former Station night-club.

47. Said foam insulation material was not flame resistant and in fact was highly flammable and toxic.

48. Following said purchase of foam insulation, the defendants Jeffrey Derderian, Michael Derderian, and/or DERCO, LLC caused said foam insulation to be installed on the walls and/or ceiling of The Station night-club.

49. At some point prior to February 20, 2003, the defendants Knight Records, Inc., Manic Music Management, and/or Paul Woolnough, as agent for the band Great White, entered into an agreement with the defendants Jeffrey Derderian, Michael Derderian, and/or DERCO, LLC whereby the band Great White, whose members included Jack Russell, Mark Kendall, David Filice, Eric Powers, and the late Ty Longley, would play at The Station night-club on February 20, 2003.

50. At some point prior to February 20, 2003, the defendants WHJY-FM, a subsidiary of the defendant Clear Channel Communications, and/or the defendant Anheuser-Busch, Inc., and/or the defendant McLaughlin & Moran, Inc., and or the defendant, Motiva Enterprises, LLC, a subsidiary of Shell Oil Company, entered into express and/or implied sponsorship agreements with the defendants Jeffrey Derderian, Michael Derderian, and/or DERCO, LLC, and/or defendants Knight Records, Inc., Manic Music Management, and/or Paul

Woolnough, as agent for the band Great White, to sponsor the concert at The Station night-club on February 20, 2003.

51. Upon information and belief, the defendant WHJY-FM, a subsidiary of the defendant Clear Channel Communications, Inc. promoted the event and distributed promotional items, negligently contributing to the unlawful overcrowding of the former Station night-club and seeking to profit from such contribution.

52. Upon information and belief, the defendant Anheuser-Busch, Inc. as part of its sponsorship of the event, specially prepared and delivered to the defendant McLaughlin & Moran, Inc. a shipment of beer, which was then delivered to The Station for consumption by fans of Great White. These defendants also distributed promotional tickets and engaged in other methods of promotion, contributing to overcrowding of The Station and sought to profit from their sponsorship.

53. The capacity of the former Station night-club was limited to 300 persons under the Class C license. Upon information and belief, more than 300 persons occupied The Station night-club the night of February 20, 2003.

54. The defendant Daniel Bichiele, and/or other agents of the band Great White, set up at or near the stage certain pyrotechnic devices manufactured by the defendant Luna Tech, Inc., for use during the Great White concert.

55. At approximately 11:10 p.m. on February 20, 2003, the band Great White took the stage at The Station.

56. After the band began playing, the defendant Daniel Bichiele activated the pyrotechnic devices at, on, or near the stage. As a result, sparks and/or flames flew from the device,

igniting the foam insulation on the ceiling and rear wall of the night-club, causing a fire which rapidly spread and engulfed the entire building.

57. Patrons attempted to flee the night-club, but many persons, including the plaintiff's decedents, were unable to get out of the building and perished in the fire.

58. The plaintiff, George Guindon, was a patron of The Station night-club on February 20, 2003.

59. The plaintiff, Barbara Guindon, is the wife of George Guindon, who was a patron of The Station night-club on February 20, 2003.

60. The plaintiff, Barbara Guindon, mother and next friend of Erica Guindon, a minor, who is the daughter of George Guindon, who was a patron of The Station night-club on February 20, 2003.

61. The plaintiff's decedent, Tina Marie Ayer, was a patron of The Station night-club on February 20, 2003.

62. The plaintiff's decedent, Joseph Edward Rossi, was a patron of The Station night-club on February 20, 2003.

63. The plaintiff, Eric Malardo, was a patron of The Station night-club on February 20, 2003.

64. The plaintiff, Michelle Malardo, is the wife of Eric Malardo who was a patron of The Station night-club on February 20, 2003.

65. The plaintiff, Richard Sanetti, was a patron of The Station night-club on February 20, 2003.

66. The plaintiff, Patricia Sanetti, is the wife of Richard Sanetti, who was a patron of The Station night-club on February 20, 2003.

67. The plaintiff, Christopher Scott, was a patron of The Station night-club on February 20, 2003.

68. The plaintiff, Julianna Giaven, was a patron of The Station night-club on February 20, 2003.

69. The plaintiff, Stephen Bruno, was a patron of The Station night-club on February 20, 2003.

70. The plaintiff, Michelle Spence, was a patron of The Station night-club on February 20, 2003.

71. The plaintiff, Michelle Spence, mother and next friend Hailey Spence, a minor, who is the daughter of Michelle Spence, who was a patron of The Station night-club on February 20, 2003.

72. The plaintiff, Catherine Carignan, was a patron of The Station night-club on February 20, 2003.

73. The capacity of the former Station night-club was limited to 300 persons under the Class C license. Upon information and belief, more than 300 persons occupied The Station night-club the night of February 20, 2003.

74. The defendant Daniel Bichiele, and/or other agents of the band Great White, set up at or near the stage certain pyrotechnic devices manufactured by the defendant Luna Tech, Inc., for use during the Great White concert.

75. At approximately 11:10 p.m. on February 20, 2003, the band Great White took the stage at The Station.

76. After the band began playing, the defendant Daniel Bichiele activated the pyrotechnic devices at, on, or near the stage. As a result, sparks and/or flames flew from the device, igniting the foam insulation on the ceiling and rear wall of the night-club, causing a fire which rapidly spread and engulfed the entire building.

## CLAIMS AS TO AMERICAN FOAM CORP

### COUNT ONE
**By George Guindon**
**(Negligence)**

77. Paragraphs One (1) through Seventy-Six (76) are hereby incorporated as if fully set forth herein.

78. The defendant American Foam Corporation, and/or its agents, servants, or employees, owed a legal duty to the Plaintiff and are liable and legally responsible for negligence which was a proximate cause of the injuries, and damages resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

79. As a direct and proximate result thereof, the plaintiff, George Guindon, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

80. As a further direct and proximate result thereof, the plaintiff, George Guindon has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

81. As a further direct and proximate result thereof, the plaintiff, George Guindon, lost time from his employment, thereby suffering an economic loss in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

82. As a further direct and proximate result thereof, the plaintiff, George Guindon, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

83. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWO**
**By Barbara Guindon, Individually**
**for Loss of Consortium**
**(Negligence)**

84. Paragraphs One (1) through Eighty-Three (83) are hereby incorporated as if fully set forth herein.

85. As a result of the use of the foam as aforesaid, the Plaintiff, Barbara Guindon, wife of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**COUNT THREE**
**By Barbara Guindon, as Mother**
**and Next Friend to Erica Guindon**
**for Loss of Consortium**
**(Negligence)**

86. Paragraphs One (1) through Eighty-Five (85) are hereby incorporated as if fully set forth herein.

87. As a result of the use of the foam as aforesaid, the Plaintiff, Erica Guindon, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**COUNT FOUR**
**By George Guindon**
**(Strict Products Liability)**

88. Paragraphs One (1) through Eighty-Seven (87) are incorporated as if more fully set forth herein.

89. The aforesaid product was not altered or modified in any way by the users or any third party from the condition in which it was manufactured and sold.

90. At all times relevant herein, said substance was expected to and did reach the users without substantial change in condition in which it was sold or manufactured.

91. The defendant American Foam Corp. is a product seller.

92. The defendant American Foam Corporation, and/or its agents, servants, or employees, are strictly liable and legally responsible for the injuries and damages resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

93. As a direct and proximate result thereof, the plaintiff, George Guindon, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

94. As a further direct and proximate result thereof, the plaintiff, George Guindon has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

95. As a further direct and proximate result thereof, the plaintiff, George Guindon, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost

wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

96. As a further direct and proximate result thereof, the plaintiff, George Guindon, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

97. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT FIVE**
**By Barbara Guindon, Individually**
**for Loss of Consortium**
**(Strict Products Liability)**

98. Paragraphs One (1) through Ninety-Three (93) are hereby incorporated as if fully set forth herein.

99. As a result of the use of the foam as aforesaid, the Plaintiff, Barbara Guindon, wife of the Injured Plaintiff , was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**COUNT SIX**
**By Barbara Guindon, as Mother**
**and Next Friend to Erica Guindon**
**for Loss of Consortium**
**(Strict Products Liability)**

100. Paragraphs One (1) through Ninety-Nine (99) are hereby incorporated as if fully set forth herein.

101. As a result of the use of the foam as aforesaid, the Plaintiff, Erica Guindon, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

## CLAIMS AGAINST FOAMEX INTERNATIONAL

### COUNT SEVEN
**By George Guindon**
**(Negligence)**

102. Paragraphs One (1) through One Hundred One (101) are hereby incorporated as if fully set forth herein.

103. The defendant Foamex International, and/or its agents, servants, or employees, owed a legal duty to the Plaintiffs and are liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

104. As a direct and proximate result thereof, the plaintiff, George Guindon, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

105. As a further direct and proximate result thereof, the plaintiff, George Guindon has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

106. As a further direct and proximate result thereof, the plaintiff, George Guindon, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost

wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

107. As a further direct and proximate result thereof, the plaintiff, George Guindon, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

108. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT EIGHT**
**By Barbara Guindon, Individually**
**for Loss of Consortium**
**(Negligence)**

109. Paragraphs One (1) through One Hundred Eight (108) are hereby incorporated as if fully set forth herein.

110. As a result of the manufacture of the foam as aforesaid, the Plaintiff, Barbara Guindon, wife of the Injured Plaintiff , was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**COUNT NINE**
**By Barbara Guindon, as Mother**
**and Next Friend to Erica Guindon**
**for Loss of Parental Consortium**
**(Negligence)**

111. Paragraphs One (1) through One Hundred Ten (110) are hereby incorporated as if fully set forth herein.

112. As a result of the use of the foam as aforesaid, the Plaintiff, Erica Guindon, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**COUNT TEN**
**By George Guindon**
**(Strict Products Liability)**

113. Paragraphs One (1) through One Hundred Twelve (112) are hereby incorporated as if fully set forth herein.

114. The aforesaid product was not altered or modified in any way by the users or any third party from the condition in which it was manufactured and sold.

115. At all times relevant herein, said substance was expected to and did reach the users without substantial change in condition in which it was sold or manufactured.

116. The defendant Foamex International is a product seller.

117. The defendant Foamex International, and/or its agents, servants, or employees, are strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

118. As a direct and proximate result thereof, the plaintiff, George Guindon, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

119. As a further direct and proximate result thereof, the plaintiff, George Guindon has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

120. As a further direct and proximate result thereof, the plaintiff, George Guindon, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

121. As a further direct and proximate result thereof, the plaintiff, George Guindon, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

122. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT ELEVEN**
**By Barbara Guindon, Individually**
**for Loss of Consortium**
**(Strict Products Liability)**

123. Paragraphs One (1) through One Hundred Twenty-Two (122) are hereby incorporated as if fully set forth herein.

124. As a result of the manufacture of the foam as aforesaid, the Plaintiff, Barbara Guindon, wife of the Injured Plaintiff , was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**COUNT TWELVE**
**By Barbara Guindon, as Mother**
**and Next Friend to Erica Guindon**
**for Loss of Consortium**
**(Strict Products Liability)**

125. Paragraphs One (1) through One Hundred Twenty-Four (124) are hereby incorporated as if fully set forth herein.

126. As a result of the use of the foam as aforesaid, the Plaintiff, Erica Guindon, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**CLAIMS AGAINST BARRY H. WARNER**
**COUNT THIRTEEN**
**By George Guindon**
**(Negligence)**

127. Paragraphs One (1) through One Hundred Twenty-Six (126) are hereby incorporated as if fully set forth herein.

128. At all times relevant hereto, the defendant Barry H. Warner was employed by American Foam Corporation and was acting in the course and scope of his employment.

129. Prior to February 20, 2003, the defendant Barry H. Warner sold the foam material to the defendants Jeffery Derderian, Michael Derderian, and/or DERCO, LLC, d/b/a The Station to be used as sound-proofing material at the former Station night-club and represented to said defendants that the foam could be safely and appropriately used as sound-proofing material when he knew or should have known that in fact the foam was highly flammable and toxic and could not be safely used for sound-proofing in a night-club where smoking and use of pyrotechnics was permitted.

130. The defendant Barry H. Warner is liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) He placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) He represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) He failed to provide proper and appropriate warnings to product users;

d) He knew or should have known of the dangerous propensities of said foam yet sold it with reckless disregard for the safety of the public, including the plaintiff;

e) He breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose;

f) He breached its express warranty that said foam was safe and effective for use;

g) He provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

h) He failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

i) He failed to provide sound-proofing material that was fire resistant when he knew the intended use of the product;

j) He failed to warn that pyrotechnics could not be safely used in spaces where the foam insulation was installed; and

k) He failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

131. As a direct and proximate result thereof, the plaintiff, George Guindon, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

132. As a further direct and proximate result thereof, the plaintiff, George Guindon has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

133. As a further direct and proximate result thereof, the plaintiff, George Guindon on lost time from his employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

134. As a further direct and proximate result thereof, the plaintiff, George Guindon, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

135. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT FOURTEEN**
**By Barbara Guindon, Individually**
**for Loss of Consortium**
**(Negligence)**

136. Paragraphs One (1) through One Hundred Thirty-Five (135) are hereby incorporated as if fully set forth herein.

137. As a result of the manufacture of the foam as aforesaid, the Plaintiff, Barbara Guindon, wife of the Injured Plaintiff , was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**COUNT FIFTEEN**
**By Barbara Guindon, as Mother and Next Friend to Erica Guindon for Loss of Consortium (Negligence)**

138. Paragraphs One (1) through One Hundred Thirty-Seven (137) are hereby incorporated as if fully set forth herein.

139. As a result of the manufacture of the foam as aforesaid, the Plaintiff, Erica Guindon, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**COUNT SIXTEEN**
**By George Guindon (Strict Products Liability)**

140. Paragraphs One (1) through One Hundred Thirty-Five (135) are hereby incorporated as if fully set forth herein.

141. At all times relevant hereto, the defendant Barry H. Warner was employed by American Foam Corporation and was acting in the course and scope of his employment.

142. Prior to February 20, 2003, the defendant Barry H. Warner sold the foam material to the defendants Jeffery Derderian, Michael Derderian, and/or DERCO, d/b/a/ The Station, to be used as sound-proofing material at the former Station night-club and represented to said defendants that the foam could be safely and appropriately used as sound-proofing material

when he knew or should have known that in fact the foam was highly flammable and toxic and could not be safely used for sound-proofing in a night-club where smoking and use of pyrotechnics was permitted.

143. The defendant Barry H. Warner is strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) He placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) He represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) He failed to provide proper and appropriate warnings to product users;

d) He knew or should have known of the dangerous propensities of said foam yet sold it with reckless disregard for the safety of the public, including the plaintiff's decedent;

e) He breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose;

f) He breached its express warranty that said foam was safe and effective for use;

g) He provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

h) He failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

i) He failed to provide sound-proofing material that was fire resistant when he knew the intended use of the product;

j) He failed to warn that pyrotechnics could not be safely used in spaces where the foam insulation was installed; and

k) He failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

144. As a direct and proximate result thereof, the plaintiff, George Guindon, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

145. As a further direct and proximate result thereof, the plaintiff, George Guindon has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

146. As a further direct and proximate result thereof, the plaintiff, George Guindon, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

147. As a further direct and proximate result thereof, the plaintiff, George Guindon, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

148. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the extent are not yet known.

**COUNT SEVENTEEN**
**By Barbara Guindon, Individually**
**for Loss of Consortium**
**(Strict Liability)**

149. Paragraphs One (1) through One Hundred Forty-Eight (148) are hereby incorporated as if fully set forth herein.

150. As a result of the manufacture of the foam as aforesaid, the Plaintiff, Barbara Guindon, wife of the Injured Plaintiff , was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**COUNT EIGHTEEN**
**By Barbara Guindon, as Mother and Next Friend to Erica Guindon for Loss of Consortium (Strict Liability)**

151. Paragraphs One (1) through One Hundred Fifty (150) are hereby incorporated as if fully set forth herein.

152. As a result of the manufacture of the foam as aforesaid, the Plaintiff, Erica Guindon, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**CLAIMS AS TO JEFFREY DERDERIAN, MICHAEL DERDERIAN, AND DERCO, LLC, d/b/a "THE STATION"**

**COUNT NINETEEN**
**By George Guindon (Negligence)**

153. Paragraphs One (1) through One Hundred Fifty-Two (152) are hereby incorporated as if fully set forth herein.

154. The defendants Jeffrey Derderian, Michael Derderian, and/or DERCO, LLC, d/b/a The Station and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to George Guindon in one or more of the following respects, in that they:

a) Failed to properly manage, control, supervise and/or inspect The Station night-club prior to and during the Great White concert;

b) Installed highly flammable and toxic foam material around the stage of the night-club and failed to ensure that the sound-proofing material was fire resistant, in violation of R.I. Gen. Laws Section 23.28.6-15;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to install, maintain, or inspect proper emergency lighting and exit signs that were operable in the event of fire or power outage, in violation of R.I. Gen. Laws Section 23-28.6-13;

f) Failed to adequately inspect The Station for safety hazards;

g) Failed to install sprinklers or other fire prevention apparatus at The Station;

h) Failed to provide adequate exits and failed to inform patrons of The Station of the location of fire exits or require personnel present to do so;

i) Allowed unsafe numbers of persons on the premises during the Great White performance;

j) Allowed The Station to become overcrowded with patrons during performances;

k) Caused or allowed the parking of vehicles in an area around The Station structure so as to impede safe egress in the event of a fire;

l) Caused or allowed uneven floor surfaces in The Station, which constituted a tripping hazard;

m) Knew or should have known of the dangerous conditions at The Station and failed to remedy those conditions; and

n) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

155. As a direct and proximate result thereof, the plaintiff, George Guindon, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

156. As a further direct and proximate result thereof, the plaintiff, George Guindon has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

157. As a further direct and proximate result thereof, the plaintiff, George Guindon, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

158. As a further direct and proximate result thereof, the plaintiff, George Guindon, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

159. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known. .

**COUNT TWENTY**
**By Barbara Guindon, Individually**
**for Loss of Consortium**
**(Negligence)**

160. Paragraphs One (1) through One Hundred Fifty-Nine (159) are hereby incorporated if fully set forth herein.

161. As a result of the aforesaid negligence, the Plaintiff, Barbara Guindon, wife of the Injured Plaintiff , was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**COUNT TWENTY-ONE**
**By Barbara Guindon, as Mother and Next Friend to Erica Guindon for Loss of Consortium (Negligence)**

162. Paragraphs One (1) through One Hundred Sixty-One (161) are hereby incorporated as if fully set forth herein.

163. As a result of the aforesaid negligence, the Plaintiff, Erica Guindon, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**CLAIMS AGAINST MANIC MUSIC MANAGEMENT, INC.**

**COUNT TWENTY-TWO**
**By George Guindon (Negligence)**

164. Paragraphs One (1) through One Hundred Sixty-Three (163) are hereby incorporated as if fully set forth herein.

165. The defendant Manic Music Management, Inc. and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to the plaintiff George Guindon in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station; and

f) Knew or should have known that the band Great White would use pyrotechnics during its concert and yet failed to take reasonable and necessary precautions.

166. As a direct and proximate result thereof, the plaintiff, George Guindon, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

167. As a further direct and proximate result thereof, the plaintiff, George Guindon has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

168. As a further direct and proximate result thereof, the plaintiff, George Guindon, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

169. As a further direct and proximate result thereof, the plaintiff, George Guindon, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

170. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWENTY-THREE**
**By Barbara Guindon, Individually**
**for Loss of Consortium**
**(Negligence)**

171. Paragraphs One (1) through One Hundred Seventy (170) are hereby incorporated as if fully set forth herein.

172. As a result of the use of the foam as aforesaid, the Plaintiff, Barbara Guindon, wife of the Injured Plaintiff , was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**COUNT TWENTY-FOUR**
**By Barbara Guindon, as Mother**
**and Next Friend to Erica Guindon**
**for Loss of Consortium**
**(Negligence)**

173. Paragraphs One (1) through One Hundred Seventy-Two (172) are hereby incorporated as if fully set forth herein.

174. As a result of the aforesaid negligence, the Plaintiff, Erica Guindon, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**CLAIMS AGAINST JACK RUSSELL, MARK KENDALL, DAVID FILICE, ERIC POWERS, d/b/a GREAT WHITE**

**COUNT TWENTY-FIVE**
**By George Guindon**
**(Negligence)**

175. Paragraphs One (1) through One Hundred Seventy-Four (174) are hereby incorporated as if fully set forth herein.

176. The defendants Jack Russell, Mark Kendall, David Filice, Eric Powers, and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to George Guindon in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station; and

f) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions.

177. As a direct and proximate result thereof, the plaintiff, George Guindon, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

178. As a further direct and proximate result thereof, the plaintiff, George Guindon has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

179. As a further direct and proximate result thereof, the plaintiff, George Guindon, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

180. As a further direct and proximate result thereof, the plaintiff, George Guindon, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

181. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWENTY-SIX**
**By Barbara Guindon, Individually**
**for Loss of Consortium**
**(Negligence)**

182. Paragraphs One (1) through One Hundred Eighty-One (181) are hereby incorporated as if fully set forth herein.

183. As a result of the aforesaid negligence, the Plaintiff, Barbara Guindon, wife of the Injured Plaintiff , was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**COUNT TWENTY-SEVEN**
**By Barbara Guindon, Individually**
**for Loss of Consortium**
**(Negligence)**

184. Paragraphs One (1) through One Hundred Eighty-Three (183) are hereby incorporated as if fully set forth herein.

185. As a result of the aforesaid negligence, the Plaintiff, Erica Guindon, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

## CLAIMS AGAINST DANIEL BICHELE

### COUNT TWENTY-EIGHT
**By George Guindon**
**(Negligence)**

186. Paragraphs One (1) through One Hundred Eight-Five (185) are hereby incorporated as if fully set forth herein.

187. The defendant Daniel Bichele and/or his agents, servants, or employees, is liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to George Guindon in one or more of the following respects, in that he or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Negligently activated dangerous pyrotechnic devices in an overcrowded night-club where it could easily ignite toxic flammable sound-proofing insulation on the walls and ceiling;

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station; and

g) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics.

188. As a direct and proximate result thereof, the plaintiff, George Guindon, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

189. As a further direct and proximate result thereof, the plaintiff, George Guindon has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

190. As a further direct and proximate result thereof, the plaintiff, George Guindon, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

191. As a further direct and proximate result thereof, the plaintiff, George Guindon, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

192. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

## COUNT TWENTY-NINE
**By Barbara Guindon, Individually**
**for Loss of Consortium**

193. Paragraphs One (1) through One Hundred Eighty-Eight (188) are hereby incorporated as if fully set forth herein.

194. As a result of the aforesaid negligence, the Plaintiff, Barbara Guindon, wife of the Injured Plaintiff , was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**COUNT THIRTY**
**By Barbara Guindon, as Mother**
**and Next Friend to Erica Guindon**
**Loss of Consortium**
**(Negligence)**

195. Paragraphs One (1) through One Hundred Ninety-Four (194) are hereby incorporated as if fully set forth herein.

196. As a result of the aforesaid negligence, the Plaintiff, Erica Guindon, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**CLAIMS AGAINST PAUL WOOLNOUGH AND KNIGHT RECORDS, INC.**

**COUNT THIRTY-ONE**
**By George Guindon**
**(Negligence)**

197. Paragraphs One (1) through One Hundred Ninety-Six (196) are hereby incorporated as if fully set forth herein.

198. The defendants Paul Woolnough and/or Knight Records, Inc. and/or his or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to Eric Malardo in one or more of the following respects, in that he or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Negligently activated dangerous pyrotechnic devices in an overcrowded night-club where it could easily ignite toxic flammable sound-proofing insulation on the walls and ceiling;

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

g) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions; and

h) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics.

199. As a direct and proximate result thereof, the plaintiff, George Guindon, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

200. As a further direct and proximate result thereof, the plaintiff, George Guindon has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

201. As a further direct and proximate result thereof, the plaintiff, George Guindon, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

202. As a further direct and proximate result thereof, the plaintiff, George Guindon, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

203. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT THIRTY-TWO**
**By Barbara Guindon, Individually**
**for Loss of Consortium**
**(Negligence)**

204. Paragraphs One (1) through Two Hundred Three (203) are hereby incorporated as if fully set forth herein.

205. As a result of the aforesaid negligence, the Plaintiff, Barbara Guindon, wife of the Injured Plaintiff , was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**COUNT THIRTY-THREE**
**By Barbara Guindon, as Mother**
**for Loss of Consortium**
**(Negligence)**

206. Paragraphs One (1) through Two Hundred Five (205) are hereby incorporated as if fully set forth herein.

207. As a result of the aforesaid negligence, the Plaintiff, Erica Guindon, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

## CLAIMS AGAINST ANHEUSER-BUSCH, INC.

## COUNT THIRTY-FOUR
**By George Guindon**
**(Negligence)**

208. Paragraphs One (1) through Two Hundred Seven (207) are hereby incorporated as if fully set forth herein.

209. The defendant Anheuser-Busch, Inc. stood to profit, monetarily or through increased brand awareness, from its sponsorship of and marketing efforts at the Great White concert at The Station on February 20, 2003.

210. The defendant Anheuser-Busch, Inc., by and through its marketing and promotional activities, including distribution of specially-prepared beer and tickets to the Great White concert, caused or contributed to the dangerous overcrowding at The Station on February 20, 2003.

211. The defendant Anheuser-Busch, Inc provided funding for promotions or paid for promotions for the event, thereby inducing patrons to attend the event.

212. The defendant Anheuser-Busch, Inc. and/or its agents, servants, or employees, owed a legal duty to the Plaintiffs and is liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting in the injuries of the plaintiff in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities;

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

g) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions;

h) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics; and

i) Attached its name to the event, thereby inducing patrons to attend the event because of the credibility given to the event by use of the name Anheuser-Busch, Inc.

213. As a direct and proximate result thereof, the plaintiff, George Guindon, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

214. As a further direct and proximate result thereof, the plaintiff, George Guindon has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

215. As a further direct and proximate result thereof, the plaintiff, George Guindon, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

216. As a further direct and proximate result thereof, the plaintiff, George Guindon, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

217. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT THIRTY-FIVE**
**By Barbara Guindon, Individually**
**for Loss of Consortium**
**(Negligence)**

218. Paragraphs One (1) through Two Hundred Seventeen (217) are hereby incorporated as if fully set forth herein.

219. As a result of the aforesaid negligence, the Plaintiff, Barbara Guindon, wife of the Injured Plaintiff , was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**COUNT THIRTY-SIX**
**By Barbara Guindon, as Mother**
**and Next Friend to Erica Guindon**
**for Loss of Parental Consortium**
**(Negligence)**

220. Paragraphs One (1) through Two Hundred Nineteen (219) are hereby incorporated as if fully set forth herein.

221. As a result of the aforesaid negligence, the Plaintiff, Erica Guindon, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

## CLAIMS AGAINST MCLAUGHLIN & MORAN, INC.
## COUNT THIRTY-SEVEN
**By George Guindon**
**(Negligence)**

222. Paragraphs One (1) through Two Hundred Twenty-One (221) are hereby incorporated as if fully set forth herein.

223. The defendant McLaughlin & Moran, Inc. stood to profit, monetarily or through increased brand awareness, from its sponsorship of and marketing efforts at the Great White concert at The Station on February 20, 2003.

224. The defendant McLaughlin & Moran, Inc., by and through its marketing and promotional activities, including distribution of specially-prepared beer and promotional tickets to the Great White concert, caused or contributed to the dangerous overcrowding at The Station on February 20, 2003.

225. The defendant, McLaughlin & Moran, Inc provided funding for promotions or paid for promotions for the event, thereby inducing patrons to attend the event.

226. The defendant McLaughlin & Moran, Inc. and/or its agents, servants, or employees, owed a legal duty to the Plaintiffs and is liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to George Guindon in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities;

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

g) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions;

h) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics; and

i) Attached its name to the event, thereby inducing patrons to attend the event because of the credibility given to the event by use of the name McLaughlin & Moran, Inc.

227. As a direct and proximate result thereof, the plaintiff, George Guindon, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

228. As a further direct and proximate result thereof, the plaintiff, George Guindon has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

229. As a further direct and proximate result thereof, the plaintiff, George Guindon, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

230. As a further direct and proximate result thereof, the plaintiff, George Guindon, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

231. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT THIRTY-EIGHT**
**By Barbara Guindon, Individually**
**for Loss of Consortium**
**(Negligence)**

232. Paragraphs One (1) through Two Hundred Thirty-One (231) are hereby incorporated as if fully set forth herein.

233. As a result of the aforesaid negligence, the Plaintiff, Barbara Guindon, wife of the Injured Plaintiff , was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**COUNT THIRTY-NINE**
**By Barbara Guindon, as Mother**
**and Next Friend to Erica Guindon**
**for Loss of Consortium**
**(Negligence)**

234. Paragraphs One (1) through Two Hundred Thirty-Three (233) are hereby incorporated as if fully set forth herein.

235. As a result of the aforesaid negligence, the Plaintiff, Erica Guindon, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

## CLAIMS AGAINST CLEAR CHANNEL COMMUNICATIONS, INC. d/b/a WHJY

## COUNT FORTY
**By George Guindon**
**(Negligence)**

236. Paragraphs One (1) through Two Hundred Thirty-Five (235) are hereby incorporated as if fully set forth herein.

237. The defendant Clear Channel Communications, Inc., d/b/a WHJY-FM stood to profit, monetarily or through increased brand awareness, from its sponsorship of and marketing efforts at the Great White concert at The Station on February 20, 2003.

238. The defendant Clear Channel Communications, Inc., d/b/a WHJY-FM by and through their marketing and promotional activities, including distribution of promotional tickets to the Great White concert, caused or contributed to the dangerous overcrowding at The Station on February 20, 2003.

239. The defendant, Clear Channel Communications, Inc., d/b/a WHJY-FM provided funding for promotions or paid for promotions for the event, thereby inducing patrons to attend the event.

240. The defendant Clear Channel Communications, Inc., d/b/a WHJY-FM and/or their agents, servants, or employees, owed a legal duty and are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to George Guindon in one or more of the following respects, in that they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities;

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

g) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions;

h) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics; and

i) Attached its name to the event, thereby inducing patrons to attend the event because of the credibility given to the event by use of the name Clear Channel Communications, Inc., d/b/a WHJY-FM.

241. As a direct and proximate result thereof, the plaintiff, George Guindon, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

242. As a further direct and proximate result thereof, the plaintiff, George Guindon has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

243. As a further direct and proximate result thereof, the plaintiff, George Guindon, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost

wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

244. As a further direct and proximate result thereof, the plaintiff, George Guindon, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

245. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

## COUNT FORTY-ONE
**By Barbara Guindon, Individually**
**for Loss of Consortium**
**(Negligence)**

246. Paragraphs One (1) through Two Hundred Forty-Five (245) are hereby incorporated as if fully set forth herein.

247. As a result of the aforesaid negligence, the Plaintiff, Barbara Guindon, wife of the Injured Plaintiff , was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

## COUNT FORTY-TWO
**By Barbara Guindon, as Mother**
**and Next Friend to Erica Guindon**
**for Loss of Parental Consortium**
**(Negligence)**

248. Paragraphs One (1) through Two Hundred Forty-Seven (247) are hereby incorporated as if more fully set forth herein.

249. As a result of the use of the foam as aforesaid, the Plaintiff, Erica Guindon, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**CLAIMS AGAINST LUNA TECH, INC. AND LUNA TECH PYROTECHNIC, GMBH**

**COUNT FORTY-THREE**
**By George Guindon**
**(Negligence)**

250. Paragraphs One (1) through Two Hundred Forty-Nine (249) are hereby incorporated as if fully set forth herein.

251. The defendants Luna Tech, Inc. and Luna Tech Pyrotechnic, GMBH, and/or their agents, servants, or employees, owed a legal duty to the Plaintiffs and are liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from sale and use of the pyrotechnics product, in one or more of the following respects, in that they:

a) Placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the devices were highly flammable and could not be safely used by bands in night-clubs;

b) Sold said devices to bands and represented that said devices were safe for their intended uses;

c) Failed to provide proper and appropriate warnings to product users;

d) Failed to properly design, manufacture, assemble, test, label, and market the devices;

e) Failed to warn that pyrotechnics could not be safely used in night-clubs or similar spaces where flammable foam insulation or other unsuitable construction material was installed;

f) Said substance was defective and unreasonably dangerous and could not be used without unreasonable risk of injury to the decedent;

g) The warnings and instructions which were given were inadequate and failed to provide sufficient notice to the decedent of the dangerous propensities of said product;

h) The Defendants misrepresented to the decedent and the general public that the substance in question was safe for use by the public;

i) The Defendants failed to disclose to the decedent and the general public the dangerous propensities of said substance;

j) The Defendants were negligent in that they failed to properly and adequately test said product prior to marketing it in that they designed said product in a defective manner;

k) The Defendants were negligent in that they knew or should have known of the dangerous characteristics of said product, yet continued to manufacture and distribute said product;

l) The Defendants were negligent in that they used improper materials in the construction of said product; and

m) The Defendants knew or should have known of the dangerous characteristics of said product, and yet decided to market and continued to market it.

252. As a direct and proximate result thereof, the plaintiff, George Guindon, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

253. As a further direct and proximate result thereof, the plaintiff, George Guindon has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

254. As a further direct and proximate result thereof, the plaintiff, George Guindon, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost

wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

255. As a further direct and proximate result thereof, the plaintiff, George Guindon, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

256. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT FORTY-FOUR**
**By Barbara Guindon, Individually**
**for Loss of Consortium**
**(Negligence)**

257. Paragraphs One (1) through Two Hundred Fifty-Six (256) are hereby incorporated as if fully set forth herein.

258. As a result of the use of the pyrotechnics as aforesaid, the Plaintiff, Barbara Guindon, wife of the Injured Plaintiff , was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**COUNT FORTY-FIVE**
**By Barbara Guindon, as Mother**
**and Next Friend to Erica Guindon**
**for Loss of Consortium**
**(Negligence)**

259. Paragraphs One (1) through Two Hundred Fifty-Eight (258) are hereby incorporated as if fully set forth herein.

260. As a result of the use of the pyrotechnics as aforesaid, the Plaintiff, Erica Guindon, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**COUNT FORTY-SIX**
**By George Guindon**
**(Strict Products Liability)**

261. Paragraphs One (1) through Two Hundred Sixty (260) are hereby incorporated as if fully set forth herein.

262. The aforesaid product was not altered or modified in any way by the users or any third party from the condition in which it was manufactured and sold.

263. At all times relevant herein, said substance was expected to and did reach the users without substantial change in condition in which it was sold or manufactured.

264. The defendants, Luna Tech, Inc. and Luna Tech Pyrotechnic, GMBH is a product seller.

265. The defendants Luna Tech, Inc. and Luna Tech Pyrotechnic, GMBH, and/or their agents, servants, or employees, are strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that they:

a) Placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the devices were highly flammable and could not be safely used by bands in night-clubs;

b) Sold said devices to bands and represented that said devices were safe for their intended uses;

c) Failed to provide proper and appropriate warnings to product users;

d) Failed to properly design, manufacture, assemble, test, label, and market the devices;

e) Failed to warn that pyrotechnics could not be safely used in night-clubs or similar spaces where flammable foam insulation or other unsuitable construction material was installed;

f) Said substance was defective and unreasonably dangerous and could not be used without unreasonable risk of injury to the decedent;

g) The warnings and instructions which were given were inadequate and failed to provide sufficient notice to the decedent of the dangerous propensities of said product;

h) The Defendants misrepresented to the decedent and the general public that the substance in question was safe for use by the public;

i) The Defendants failed to disclose to the decedent and the general public the dangerous propensities of said substance;

j) Defendants were negligent in that they failed to properly and adequately test said product prior to marketing it in that they designed said product in a defective manner;

k) The Defendants were negligent in that they knew or should have known of the dangerous characteristics of said product, yet continued to manufacture and distribute said product;

l) The Defendants were negligent in that they used improper materials in the construction of said product; and

m) The Defendants knew or should have known of the dangerous characteristics of said product, and yet decided to market and continued to market it.

266. As a direct and proximate result thereof, the plaintiff, George Guindon, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

267. As a further direct and proximate result thereof, the plaintiff, George Guindon has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

268. As a further direct and proximate result thereof, the plaintiff, George Guindon, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

269. As a further direct and proximate result thereof, the plaintiff, George Guindon, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

270. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT FORTY-SEVEN**
**By Barbara Guindon, Individually**
**for Loss of Consortium**
**(Strict Products Liability)**

271. Paragraphs One (1) through Two Hundred Seventy (270) are hereby incorporated as if fully set forth herein.

272. As a result of the aforesaid negligence, the Plaintiff, Barbara Guindon, wife of the Injured Plaintiff , was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**COUNT FORTY-EIGHT**
**By Barbara Guindon, as Mother**
**and Next Friend to Erica Guindon**
**for Loss of Consortium**
**(Strict Products Liabilty)**

273. Paragraphs One (1) through Two Hundred Seventy-Two (272) are hereby incorporated as if fully set forth herein.

274. As a result of the aforesaid negligence, the Plaintiff, Erica Guindon, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**CLAIMS AGAINST JOINT VENTURE LIABILITY AS TO JEFFREY DERDERIAN, MICHAEL DERDERIAN, AND DERCO LLC D/B/A THE STATION, MANIC MUSIC MANAGEMENT, INC., JACK RUSSELL, MARK KENDALL, DAVID FILICE, ERIC POWERS, DANIEL BICHIELE, PAUL WOOLNOUGH, KNIGHT RECORDS, INC., ANHEUSER-BUSCH, INC., MCLAUGHLIN & MORAN, INC., CLEAR CHANNEL COMMUNICATIONS, INC., d/b/a WHJY-FM, MOTIVA ENTERPRISES, LLC AND SHELL OIL COMPANY AND THE TOWN OF WEST WARWICK AND STATE OF RHODE ISLAND**

**COUNT FORTY-NINE**
**By George Guindon**
**(Negligence)**

275. Paragraphs One (1) through Two Hundred Seventy-Four (274) are hereby incorporated as if fully set forth herein.

276. Prior to the Great White concert that occurred on February 20, 2003, the defendants Jeffrey Derderian, Michael Derderian, and DERCO LLC d/b/a The Station, Manic Music Management, Inc., Jack Russell, Mark Kendall, David Filice, Eric Powers, Daniel Bichiele, Paul Woolnough, Knight Records, Inc., Anheuser-Busch, Inc., McLaughlin & Moran, Inc., Clear Channel Communications, Inc., d/b/a WHJY-FM, Motiva Enterprises, LLC and Shell

Oil Company and The Town of West Warwick and State of Rhode Island., entered into an express or implied agreement for the common purpose and design of planning, endorsing, sponsoring, promoting, and/or advertising the concert.

277. The defendants joined and participated in this joint venture for the purpose of pursuing their common business interests and for economic gain.

278. Each of the participating defendants had a right to voice concerns regarding the event and each controlled certain aspects of the planning, endorsement, sponsorship, promotion, and/or advertising relating to the Great White concert, including but not limited to the selection and inspection of the venue, The Station.

279. The defendants, and/or their agents, servants, employees and/or contractors acting within the course and scope of their employment or agency, owed a legal duty to the Plaintiffs and are liable and legally responsible for the injuries, damages, and deaths resulting from negligent, careless and/or reckless acts or omissions in planning, endorsing, sponsoring, promoting and/or advertising the Great White concert that occurred on February 20, 2003, in one or more of the following respects:

a) Failed to properly manage, control, supervise and/or inspect The Station night-club prior to and during the Great White concert;

b) Installed or permitted to be installed highly flammable and toxic foam material around the stage of the night-club and failed to ensure that the sound-proofing material was fire resistant, in violation of R.I. Gen. Laws Section 23.28.6-15;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to inspect proper emergency lighting and exit signs that were operable in the event of fire or power outage, in violation of R.I. Gen. Laws Section 23-28.6-13;

f) Failed to adequately inspect The Station for safety hazards, or negligently performed same;

g) Failed to inspect for sprinklers or other fire prevention equipment and apparatus at The Station;

h) Failed to provide adequate exits and failed to inform patrons of The Station of the location of fire exits or require personnel present to do so;

i) Allowed unsafe numbers of persons on the premises during the Great White performance;

j) Allowed The Station to become overcrowded with patrons during performances;

k) Caused or allowed the parking of vehicles in an area around The Station structure so as to impede safe egress in the event of a fire;

l) Caused or allowed uneven floor surfaces in The Station which constituted a tripping hazard;

m) Knew or should have known of the dangerous conditions at The Station and failed to remedy those conditions;

n) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station; and

o) Were otherwise negligent in their selection and/or inspection of the venue for the Great White concert, The Station.

280. As a direct and proximate result thereof, the plaintiff, George Guindon, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

281. As a further direct and proximate result thereof, the plaintiff, George Guindon has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

282. As a further direct and proximate result thereof, the plaintiff, George Guindon, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

283. As a further direct and proximate result thereof, the plaintiff, George Guindon, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

284. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT FIFTY**
**By Barbara Guindon**
**for Loss of Consortium**
**(Negligence)**

285. Paragraphs One (1) through Two Hundred Eighty-Four (284) are hereby incorporated as if fully set forth herein.

286. As a result of the aforesaid negligence of the Joint Venture, the Plaintiff, Barbara Guindon, wife of the Injured Plaintiff , was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**COUNT FIFTY-ONE**
**By Barbara Guindon, as Mother and Next Friend to Erica Guindon for Loss of Consortium (Negligence)**

287. Paragraphs One (1) through Two Hundred Eighty-Six (286) are hereby incorporated as if fully set forth herein.

288. As a result of the aforesaid negligence of the Joint Venture, the Plaintiff, Erica Guindon, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**CLAIMS AGAINST SHELL OIL CORPORATION AND MOTIVA ENTERPRISES, LLC.**

**COUNT FIFTY-TWO**
**By George Guindon (Negligence)**

289. Paragraphs One (1) through Two Hundred Eighty-four (284) are hereby incorporated as if fully set forth herein.

290. Upon information and belief, the defendant, Shell Oil Company, d/b/a Motiva Enterprises, LLC, was the owner/lessor of certain property located at 7380 Post Road, North Kingstown, Rhode Island.

291. Upon information and belief, defendant DERCO LLC was the manager and lessee of the aforesaid property owned by, the defendant, Shell Oil Company, d/b/a Motiva Enterprises, LLC.

292. Upon information and belief, the defendant Shell Oil Company dominated, controlled and/or managed the practices, policies and finances of Motiva, LLC and the gas station operation at the 7380 Post Road facility, including but not limited to exercising joint control over the management, inventory, marketing, promotions, and pricing policies

293. The defendants Shell Oil Company and Motiva Enterprises, LLC owed a legal duty to patrons of The Station because they engaged in the promotion of the Great White performance at The Station by distributing certain tickets in return for certain purchases of its merchandise, which promotion was expressly or impliedly approved by Shell Oil Company and its subsidiary Motiva Enterprises, LLC in negligent disregard for the safety of the anticipated patrons at the performance.

294. The defendants Shell Oil Company and Motiva Enterprises, LLC endorsed, sponsored, promoted, and/or advertised the Great White concert and stood to profit monetarily these activities and marketing efforts.

295. Upon information and belief, the defendants Shell Oil Company and Motiva Enterprises, LLC expressly and/or impliedly represented and warranted to the public through its marketing, promotional activities and ticket sales that the venue selected for the show was reasonably safe and would not subject patrons to an unreasonable risk of serious injury or death.

296. The defendants, Shell Oil Company and Motiva Enterprises, LLC, knew or should have known that, if the venue for the performance did not have adequate fire protection and suppression equipment, that patrons would be subjected to a foreseeable, unreasonable risk of injury or even death.

297. The defendants, Shell Oil Company and Motiva Enterprises, LLC, knew or should have known that members of the public, including the Injured Plaintiff, were relying on it to exercise proper care, skill and diligence in the review and selection of a safe venue for concerts for which it sold tickets.

298. The defendants Shell Oil Company and Motiva Enterprises, LLC were negligent and careless in the manner in which they engaged in the promotion of the aforesaid performance, which negligence and carelessness caused the injuries and damages as hereinafter set forth.

299. The defendants Shell Oil Company and Motiva Enterprises, LLC through its agents, servants, employees or contractors acting within the course and scope of their employment or agency, owed a legal duty to the Plaintiff and Plaintiff's minor child and is liable and legally responsible for negligence in causing injury to the Plaintiff in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the nightclub;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the nightclub in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the nightclub by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities;

f) Failed to properly and adequately review, inspect and approve The Station as a safe venue for members of the public;

g) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

h) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions;

i) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics; and

j) Attached its name to the event, thereby inducing patrons to attend the event because of the credibility given to the event by use of the name Shell Oil.

300. As a direct and proximate result thereof, the plaintiff, George Guindon, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

301. As a further direct and proximate result thereof, the plaintiff, George Guindon has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

302. As a further direct and proximate result thereof, the plaintiff, George Guindon, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

303. As a further direct and proximate result thereof, the plaintiff, George Guindon, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

304. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT FIFTY-THREE**
**By Barbara Guindon, Individually**
**for Loss of Consortium**
**(Negligence)**

305. Paragraphs One (1) through Three Hundred Four (304) are hereby incorporated as if fully set forth herein.

306. As a result of the promotion of the Great White Concert as aforesaid , the Plaintiff, Barbara Guindon, wife of the Injured Plaintiff , was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**COUNT FIFTY-FOUR**
**By Barbara Guindon, as Mother**
**and Next Friend to Erica Guindon**
**for Loss of Consortium**
**(Negligence)**

307. Paragraphs One (1) through Three Hundred Six (306) are hereby made and incorporated as if fully set forth herein.

308. As a result of the promotion of the Great White concert as aforesaid, the Plaintiff, Erica Guindon, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**CLAIMS AGAINST TOWN OF WEST WARWICK**
**AND FIRE INSPECTOR, DENNIS LAROCQUE**

**COUNT FIFTY-FIVE**
**By George Guindon**
**(Negligence)**

309. Paragraphs One (1) through Three Hundred Eight (308) are hereby made and incorporated as if fully set forth herein.

310. The Town of West Warwick and its Fire Inspector, Dennis Larocque, are responsible for the inspection of commercial facilities in the Town of West Warwick and enforcement of the building and fire code laws of the State of Rhode Island.

311. The Town of West Warwick and Fire Inspector, Dennis Larocque, owed a legal duty to the public in general and the patrons of The Station in particular to exercise reasonable care and due diligence by properly inspecting commercial properties in the Town of West Warwick.

312. The Town of West Warwick and Fire Inspector, Dennis Larocque, were negligent and careless in failing to properly inspect the Station and enforce the laws of the State of Rhode Island, which negligence and carelessness proximately caused the injuries and damages as hereinafter set forth.

313. The Town is liable for the negligence of its agents, servants, and employees, and owed a special duty to each Plaintiff.

314. The Town of West Warwick and Fire Inspector, Dennis Larocque, through its agents, servants, and employees were negligent and careless in one or more of the following ways, in that they:

a) Failed to enforce the building code and fire safety laws of the State of Rhode Island;

b) Failed to adequately inspect The Station;

c) Failed to conduct regular inspections of The Station;

d) Failed to discover and take action for the highly flammable and toxic materials existing on the premises of The Station, which materials should have been discovered by a reasonable inspection;

e) Failed to properly train personnel in fire safety laws, regulations and standards;

f) Failed to require sprinkler systems or other fire prevention devices at The Station;

g) Failed to employ adequate employees and/or personnel to adequately enforce the fire safety laws, regulations and standards;

h) Failed to appropriate adequate funds for the enforcement of fire safety laws, regulations and standards;

i) Knew or should have known of the use of pyrotechnics at The Station and failed to take action to prevent the same when it was unsafe to use pyrotechnics under the circumstances;

j) Failed to enforce Section 23-28-18-4 of the Rhode Island General Laws by failing to ensure that The Station, which provided performances to more than seventy-five (75) people, was free from combustible debris; and

k) Failed to require that The Station limit the number of patrons on the premises to a safe number of patrons.

315. As a direct and proximate result thereof, the plaintiff, George Guindon, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

316. As a further direct and proximate result thereof, the plaintiff, George Guindon has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

317. As a further direct and proximate result thereof, the plaintiff, George Guindon, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

318. As a further direct and proximate result thereof, the plaintiff, George Guindon, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

319. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

320. The Fire Inspector, Dennis Larocque, is entitled to indemnity by the Town of West Warwick, pursuant to Section 45-15-16 of the Rhode Island General Laws.

321. Pursuant to Section 45-15-5 of the Rhode Island General Laws, the Plaintiffs have provided the Town of West Warwick with a valid Notice of Presentment of Claim, and more than forty (40) days have passed since said notice was provided.

**COUNT FIFTY-SIX**
**By Barbara Guindon, Individually**
**for Loss of Consortium**
**(Negligence)**

322. Paragraphs One (1) through Three Hundred Twenty-One (321) are hereby incorporated as if fully set forth herein.

323. As a result of the negligent inspection as aforesaid, the Plaintiff, Barbara Guindon, wife of the Injured Plaintiff , was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**COUNT FIFTY-SEVEN**
**By Barbara Guindon, as Mother**
**and Next Friend to Erica Guindon**
**for Loss of Consortium**
**(Negligence)**

324. Paragraphs One (1) through Three Hundred Twenty-Three (323) are hereby incorporated as if fully set forth herein.

325. As a result of the negligent inspection as aforesaid, the Plaintiff, Erica Guindon, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**CLAIMS AGAINST STATE OF RHODE ISLAND**
**AND IRVING J. OWENS, FIRE MARSHALL**

**COUNT FIFTY-EIGHT**
**By George Guindon**
**(Negligence)**

326. Paragraphs One (1) through Three Hundred Twenty-Five (325) are hereby incorporated as if fully set forth herein.

327. The State of Rhode Island and its Fire Marshal, Irving J. Owens, are responsible for the inspection of commercial facilities in the Town of West Warwick and enforcement of the building and fire code laws of the State of Rhode Island.

328. Pursuant to Section 23-28.2-4 of the Rhode Island General Laws, the State of Rhode Island and Fire Marshal, Irving J. Owens, owed a legal duty to the public in general and the patrons of The Station in particular to exercise reasonable care and due diligence by properly inspecting or causing proper inspections commercial properties in the Town of West Warwick, and to enforce and perform the duties required by the Fire Safety Code.

329. The State and Fire Marshal were negligent and careless in failing to properly inspect the Station and enforce the laws of the State of Rhode Island, which negligence and carelessness proximately caused the injuries and damages as hereinafter set forth.

330. The State and Fire Marshal are liable for the negligence of its agents, servants, and employees, and owed a special duty to each Plaintiff.

331. The State and Fire Marshal, through their agents, servants, and employees were negligent and careless in one or more of the following ways, in that they:

a) Failed to enforce the building code and fire safety laws of the State of Rhode Island;

b) Failed to adequately inspect The Station;

c) Failed to conduct regular inspections of The Station;

d) Failed to discover and take action for the highly flammable and toxic materials existing on the premises of The Station, which materials should have been discovered by a reasonable inspection;

e) Failed to properly train personnel in fire safety laws, regulations and standards;

f) Failed to require sprinkler systems or other fire prevention devices at The Station;

g) Failed to employ adequate employees and/or personnel to adequately enforce the fire safety laws, regulations and standards;

h) Failed to appropriate adequate funds for the enforcement of fire safety laws, regulations and standards;

i) Knew or should have known of the use of pyrotechnics at The Station and failed to take action to prevent the same when it was unsafe to use pyrotechnics under the circumstances;

j) Failed to enforce Section 23-28-18-4 of the Rhode Island General Laws by failing to ensure that The Station, which provided performances to more than seventy-five (75) people, was free from combustible debris; and

k) Failed to require that The Station limit the number of patrons on the premises to a safe number of patrons.

332. As a direct and proximate result thereof, the plaintiff, George Guindon, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

333. As a further direct and proximate result thereof, the plaintiff, George Guindon has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

334. As a further direct and proximate result thereof, the plaintiff, George Guindon, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

335. As a further direct and proximate result thereof, the plaintiff, George Guindon, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

336. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

337. The Fire Marshal, Irving J. Owens, is entitled to indemnity by the Town of West Warwick pursuant to Section 23-28.2-17 of the Rhode Island General Laws.

338. Pursuant to Section 45-15-5 of the Rhode Island General Laws, the Plaintiffs have provided the Town of West Warwick with a valid Notice of Presentment of Claim, and more than forty (40) days have passed since said notice was provided.

**COUNT FIFTY-NINE**
**By Barbara Guindon, Individually**
**for Loss of Consortium**
**(Negligence)**

339. Paragraphs One (1) through Three Hundred Thirty-Eight (338) are hereby incorporated as if fully set forth herein.

340. As a result of the aforesaid negligence, the Plaintiff, Barbara Guindon, wife of the Injured Plaintiff , was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**COUNT SIXTY**
**By Barbara Guindon, as Mother**
**and Next Friend to Erica Guindon**
**for Loss of Consortium**
**(Negligence)**

341. Paragraphs One (1) through Three Hundred Forty (340) are hereby incorporated as if fully set forth herein.

342. As a result of the aforesaid negligence, the Plaintiff, Erica Guindon, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

## CLAIMS AS TO AMERICAN FOAM CORP

### COUNT SIXTY-ONE
**By Tammy Ayer, as Administrator of the Estate of Tina Marie Ayer (Negligence)**

343. Paragraphs One (1) through Three Hundred Forty-Two (342) are hereby incorporated as if fully set forth herein.

344. The defendant American Foam Corporation, and/or its agents, servants, or employees, owed a legal duty to the Plaintiffs and are liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

345. As a direct and proximate result thereof, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to her untimely death and ultimately her died.

346. As a further direct and proximate result thereof, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which she would have otherwise been able to enjoy and in which she would have participated.

347. As a further direct and proximate result thereof, the death of the plaintiff decedent, who was a thirty-six (36) year-old woman ,destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

348. As a result of her death, the Estate of Tina Marie Ayer incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

**COUNT SIXTY-TWO**
**Tammy Ayer, as Administrator**
**of the Estate of Tina Marie Ayer**
**(Strict Products Liability)**

349. Paragraphs One (1) through Three Hundred Forty-Eight (348) are hereby incorporated as if fully set forth herein.

350. The aforesaid product was not altered or modified in any way by the users or any third party from the condition in which it was manufactured and sold.

351. At all times relevant herein, said substance was expected to and did reach the users without substantial change in condition in which it was sold or manufactured.

352. The defendant American Foam Corp. is a product seller.

353. The defendant American Foam Corporation, and/or its agents, servants, or employees, are strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed;

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable;

o) Said substance was defective and unreasonably dangerous and could not be used without unreasonable risk of injury to the decedent;

p) The warnings and instructions which were given were inadequate and failed to provide sufficient notice to the decedent of the dangerous propensities of said product;

q) The Defendants misrepresented to the decedent and the general public that the substance in question was safe for use by the public;

r) The Defendants failed to disclose to the decedent and the general public the dangerous propensities of said substance;

s) The Defendants were negligent in that they failed to properly and adequately test said product prior to marketing it in that they designed said product in a defective manner;

t) The Defendants were negligent in that they knew or should have known of the dangerous characteristics of said product, yet continued to manufacture and distribute said product;

u) The Defendants were negligent in that they used improper materials in the construction of said product;

v) The Defendants knew or should have known of the dangerous characteristics of said product, and yet decided to market and continued to market it;

w) The Defendants breached an implied warranty of merchantability in that said substance was not of merchantable quality and fit for its intended purpose; and

x) The Defendants breached their express warranties that said product was safe and effective for its intended use.

354. As a direct and proximate result thereof, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to her untimely death and ultimately she died.

355. As a further direct and proximate result thereof, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which she would have otherwise been able to enjoy and in which she would have participated.

356. As a further direct and proximate result thereof, the death of the plaintiff decedent, who was a thirty-six (36) year-old woman, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

357. As a result of his death, the Estate of Tina Marie Ayer incurred medical and funeral and burial expenses, as well as the cost of administering she estate.

## CLAIMS AGAINST FOAMEX INTERNATIONAL

### COUNT SIXTY-THREE
**Tammy Ayer, as Administrator**
**to the Estate of Tina Marie Ayer**
**(Negligence)**

358. Paragraphs One (1) through Three Hundred Fifty-Seven (357) are incorporated as if more fully set forth herein.

359. The defendant, Foamex International, and/or its agents, servants, or employees, owed a legal duty to the Plaintiffs and are liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

360. As a direct and proximate result thereof, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to her untimely death and ultimately she died.

361. As a further direct and proximate result thereof, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the

enjoyment of life's pleasures, which she would have otherwise been able to enjoy and in which she would have participated.

362. As a further direct and proximate result thereof, the death of the plaintiff decedent, who was a thirty-six (36) year-old woman, destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

363. As a result of her death, the Estate of Tina Marie Ayer incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

**COUNT SIXTY-FOUR**
**By Tammy Ayer, as Administrator**
**for the Estate of Tina Marie Ayer**
**(Strict Products Liability)**

364. Paragraphs One (1) through Three Hundred Fifty-Nine (359) are hereby incorporated as if fully set forth herein.

365. The aforesaid product was not altered or modified in any way by the users or any third party from the condition in which it was manufactured and sold.

366. At all times relevant herein, said substance was expected to and did reach the users without substantial change in condition in which it was sold or manufactured.

367. The defendant, Foamex International, is a product seller.

368. The defendant, Foamex International, and/or its agents, servants, or employees, are strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

369. As a direct and proximate result thereof, plaintiff's decedent suffered excruciating continual mental and physical pain and distress prior to her untimely death and ultimately she died.

370. As a further direct and proximate result thereof, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which she would have participated.

371. As a further direct and proximate result thereof, the death of the plaintiff decedent, who was a thirty-six (36) year-old woman, destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

372. As a result of his death, the Estate of Tina Marie Ayer incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

## CLAIMS AGAINST BARRY H. WARNER

### COUNT SIXTY-FIVE
**By Tammy Ayer, as Administrator**
**of the Estate of Tina Marie Ayer**
**(Negligence)**

373. Paragraphs One (1) through Three Hundred Seventy-Two (372) are hereby incorporated as if fully set forth herein.

374. At all times relevant hereto, the defendant Barry H. Warner was employed by American Foam Corporation and was acting in the course and scope of his employment.

375. Prior to February 20, 2003, the defendant Barry H. Warner sold the foam material to the defendants, Jeffery Derderian, Michael Derderian, and/or DERCO, LLC, d/b/a The Station, to be used as sound-proofing material at the former Station night-club and represented to

said defendants that the foam could be safely and appropriately used as sound-proofing material when he knew or should have known that in fact the foam was highly flammable and toxic and could not be safely used for sound-proofing in a night-club where smoking and use of pyrotechnics was permitted.

376. The defendant, Barry H. Warner, is liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) He placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) He represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) He failed to provide proper and appropriate warnings to product users;

d) He knew or should have known of the dangerous propensities of said foam yet sold it with reckless disregard for the safety of the public, including the plaintiff's decedent;

e) He breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose;

f) He breached its express warranty that said foam was safe and effective for use;

g) He provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

h) He failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

i) He failed to provide sound-proofing material that was fire resistant when he knew the intended use of the product;

j) He failed to warn that pyrotechnics could not be safely used in spaces where the foam insulation was installed; and

k) He failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

377. As a direct and proximate result thereof, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately she died.

378. As a further direct and proximate result thereof, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which she would have otherwise been able to enjoy and in which she would have participated.

379. As a further direct and proximate result thereof, the death of the plaintiff decedent, who was a thirty-six (36) year-old woman, destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

380. As a result of her death, the Estate of Tina Marie Ayer incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

**COUNT SIXTY-SIX**
**By Tammy Ayer, as Administrator**
**to the Estate of Tina Marie Ayer**
**(Strict Product Liability)**

381. Paragraphs One (1) through Three Hundred Eighty (380) are hereby incorporated as if fully set forth herein.

382. At all times relevant hereto, the defendant, Barry H. Warner, was employed by American Foam Corporation and was acting in the course and scope of his employment.

383. Prior to February 20, 2003, the defendant, Barry H. Warner, sold the foam material to the defendants, Jeffery Derderian, Michael Derderian, and/or DERCO, d/b/a/ The Station, to be

used as sound-proofing material at the former Station night-club and represented to said defendants that the foam could be safely and appropriately used as sound-proofing material when he knew or should have known that in fact the foam was highly flammable and toxic and could not be safely used for sound-proofing in a night-club where smoking and use of pyrotechnics was permitted.

384. The defendant, Barry H. Warner, is strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) He placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) He represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) He failed to provide proper and appropriate warnings to product users;

d) He knew or should have known of the dangerous propensities of said foam yet sold it with reckless disregard for the safety of the public, including the plaintiff's decedent;

e) He breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose;

f) He breached its express warranty that said foam was safe and effective for use;

g) He provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

h) He failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

i) He failed to provide sound-proofing material that was fire resistant when he knew the intended use of the product;

j) He failed to warn that pyrotechnics could not be safely used in spaces where the foam insulation was installed; and

k) He failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

385. As a direct and proximate result thereof, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to her untimely death and ultimately she died.

386. As a further direct and proximate result thereof, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which she would have otherwise been able to enjoy and in which she would have participated.

387. As a further direct and proximate result thereof, the death of the plaintiff decedent, who was a thirty-six (36) year-old woman, destroyed his ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

388. As a result of her death, the Estate of Tina Marie Ayer, Jr. incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

## CLAIMS AGAINST JEFFREY DERDERIAN, MICHAEL DERDERIAN, AND DERCO, LLC, d/b/a THE STATION

### COUNT SIXTY-SEVEN
**By Tammy Ayer, as Administrator**
**for the Estate of Tina Marie Ayer**
**(Negligence)**

389. Paragraphs One (1) through Three Hundred Eighty-Eight (388) are hereby incorporated as if fully set forth herein.

390. The defendants, Jeffrey Derderian, Michael Derderian, and/or DERCO, LLC, d/b/a The Station, and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting death of Ms. Ayer in one or more of the following respects, in that they:

a) Failed to properly manage, control, supervise and/or inspect The Station night-club prior to and during the Great White concert;

b) Installed highly flammable and toxic foam material around the stage of the night-club and failed to ensure that the sound-proofing material was fire resistant, in violation of R.I. Gen. Laws Section 23.28.6-15;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to install, maintain, or inspect proper emergency lighting and exit signs that were operable in the event of fire or power outage, in violation of R.I. Gen. Laws Section 23-28.6-13;

f) Failed to adequately inspect The Station for safety hazards;

g) Failed to install sprinklers or other fire prevention apparatus at The Station;

h) Failed to provide adequate exits and failed to inform patrons of The Station of the location of fire exits or require personnel present to do so;

i) Allowed unsafe numbers of persons on the premises during the Great White performance;

j) Allowed The Station to become overcrowded with patrons during performances;

k) Caused or allowed the parking of vehicles in an area around The Station structure so as to impede safe egress in the event of a fire;

l) Caused or allowed uneven floor surfaces in The Station which constituted a tripping hazard;

m) Knew or should have known of the dangerous conditions at The Station and failed to remedy those conditions; and

n) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

391. As a result of the negligence, carelessness and statutory violations of said defendants, as aforesaid, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to her untimely death and ultimately she died.\

392. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which she would have otherwise been able to enjoy and in which she would have participated.

393. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the death of the plaintiff decedent, who was a thirty-six (36) year-old woman, destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

394. As a result of her death, the Estate of Tina Marie Ayer. incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

## CLAIMS AGAINST MANIC MUSIC MANAGEMENT, INC.

### COUNT SIXTY-EIGHT
**By Tammy Ayer, as Administrator of the Estate of Tina Marie Ayer (Negligence)**

395. Paragraphs One (1) through Three Hundred Ninety-Four (394) are hereby incorporated as if fully set forth herein.

396. The defendant ,Manic Music Management, Inc., and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting death of Ms. Ayer in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3; and

e) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

397. As a result of the negligence, carelessness and statutory violations of said defendant, as aforesaid, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to her untimely death and ultimately she died.

398. As a further result of the negligence, carelessness, and statutory violations of the defendant, as aforesaid, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which she would have otherwise been able to enjoy and in which she would have participated.

399. As a further result of the negligence, carelessness, and statutory violations of the defendant, as aforesaid, the death of the plaintiff decedent, who was a who was a thirty-six (36) year-old

woman, destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

400. As a result of her death, the Estate of Tina Marie Ayer incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

## CLAIMS AGAINST JACK RUSSELL, MARK KENDALL, DAVID FILICE, ERIC POWERS, d/b/a GREAT WHITE

### COUNT SIXTY-NINE
**By Tammy Ayer, as Administrator of the Estate of Tina Marie Ayer (Negligence)**

401. Paragraphs One (1) through Four Hundred (400) are hereby incorporated as if fully set forth herein.

402. The defendants, Jack Russell, Mark Kendall, David Filice, Eric Powers, and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting death of Ms. Ayer in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3; and

e) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

403. As a result of the negligence, carelessness and statutory violations of said defendants, as aforesaid, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to her untimely death and ultimately she died.

404. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which she would have participated.

405. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the death of the plaintiff decedent, who was a thirty-six (36) year-old woman, destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

406. As a result of her death, the Estate of Tina Marie Ayer. incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

## CLAIMS AGAINST DANIEL BICHELE

### COUNT SEVENTY
**By Tammy Ayer, as Administrator of the Estate of Tina Marie Ayer (Negligence)**

407. Paragraphs One (1) through Four Hundred Six (406) are hereby incorporated as if fully set forth herein.

408. The defendant, Daniel Bichele, and/or his agents, servants, or employees, is liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting death of Ms. Ayer in one or more of the following respects, in that he or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Negligently activated dangerous pyrotechnic devices in an overcrowded night-club where it could easily ignite toxic flammable sound-proofing insulation on the walls and ceiling; and

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

409. As a result of the negligence, carelessness and statutory violations of said defendant, as aforesaid, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to her untimely death and ultimately she died.

410. As a further result of the negligence, carelessness, and statutory violations of the defendant, as aforesaid, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which she would have otherwise been able to enjoy and in which she would have participated.

411. As a further result of the negligence, carelessness, and statutory violations of the defendant, as aforesaid, the death of the plaintiff decedent, who was a thirty-six (36) year-old woman, destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

412. As a result of her death, the Estate of Tina Marie Ayer incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

## CLAIMS AGAINST PAUL WOOLNOUGH, AND KNIGHT RECORD, INC.

### COUNT SEVENTY-ONE
**By Tammy Ayer, as Administrator of the Estate of Tina Marie Ayer (Negligence)**

413. Paragraphs One (1) through Four Hundred Eight (408) are hereby incorporated as if fully set forth herein.

414. The defendants, Paul Woolnough and/or Knight Records, Inc., and/or his or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting death of Ms. Ayer in one or more of the following respects, in that he or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Negligently activated dangerous pyrotechnic devices in an overcrowded night-club where it could easily ignite toxic flammable sound-proofing insulation on the walls and ceiling; and

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

415. As a result of the negligence, carelessness and statutory violations of said defendants, as aforesaid, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to her untimely death and ultimately she died.

416. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which she would have otherwise been able to enjoy and in which she would have participated.

417. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the death of the plaintiff decedent, who was a thirty-six (36) year-old woman, destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

418. As a result of her death, the Estate of Tina Marie Ayer incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

## CLAIMS AGAINST ANHEUSER-BUSCH, INC.

### COUNT SEVENTY-TWO
**By Tammy Ayer, as Administrator of the Estate of Tina Marie Ayer (Negligence)**

419. Paragraphs One (1) through Four Hundred Eighteen (418) are hereby incorporated as if fully set forth herein.

420. The defendant, Anheuser-Busch, Inc., stood to profit, momentarily or through increased brand awareness, from its sponsorship of and marketing efforts at the Great White concert at The Station on February 20, 2003.

421. The defendant, Anheuser-Busch, Inc., by and through its marketing and promotional activities, including distribution of specially-prepared beer and tickets to the Great White concert, caused or contributed to the dangerous overcrowding at The Station on February 20, 2003.

422. The defendant, Anheuser-Busch, Inc., and/or its agents, servants, or employees, is liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting death of Ms. Ayer in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities; and

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

423. As a result of the negligence, carelessness and statutory violations of said defendants, as aforesaid, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to her untimely death and ultimately she died.

424. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the plaintiff's decedent will forever be prohibited from participating in all that

life has to offer and has suffered a loss of the enjoyment of life's pleasures, which she would have otherwise been able to enjoy and in which she would have participated.

425. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the death of the plaintiff decedent, who was a thirty-six (36) year-old woman, destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

426. As a result of her death, the Estate of Tina Marie Ayer incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

## CLAIMS AS TO MCLAUGHLIN & MORAN, INC.

### COUNT SEVENTY-THREE
**By Tammy Ayer, as Administrator of the Estate of Tina Marie Ayer (Negligence)**

427. Paragraphs One (1) through Four Hundred Twenty-Two (422) are hereby incorporated as if fully set forth herein.

428. The defendant, McLaughlin & Moran, Inc., stood to profit, monetarily or through increased brand awareness, from its sponsorship of and marketing efforts at the Great White concert at The Station on February 20, 2003.

429. The defendant, McLaughlin & Moran, Inc., by and through its marketing and promotional activities, including distribution of specially-prepared beer and promotional tickets to the Great White concert, caused or contributed to the dangerous overcrowding at The Station on February 20, 2003.

430. The defendant, McLaughlin & Moran, Inc., and/or its agents, servants, or employees, is liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting death of Ms. Ayer in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities; and

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

431. As a result of the negligence, carelessness and statutory violations of said defendants, as aforesaid, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately she died.

432. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which she would have participated.

433. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the death of the plaintiff decedent, who was a thirty-six (36) year-old woman,

destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

434. As a result of her death, the Estate of Tina Marie Ayer incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

## CLAIMS AGAINST CLEAR CHANNEL COMMUNICATIONS, INC. d/b/a WHJY-FM

### COUNT SEVENTY-FOUR
**By Tammy Ayer, as Administrator of the Estate of Tina Marie Ayer (Negligence)**

435. Paragraphs One (1) through Four Hundred Thirty-Four (434) are hereby incorporated as if fully set forth herein.

436. The defendant, Clear Channel Communications, Inc., d/b/a WHJY-FM, stood to profit, monetarily or through increased brand awareness, from its sponsorship of and marketing efforts at the Great White concert at The Station on February 20, 2003.

437. The defendant, Clear Channel Communications, Inc., d/b/a WHJY-FM, by and through their marketing and promotional activities, including distribution of promotional tickets to the Great White concert, caused or contributed to the dangerous overcrowding at The Station on February 20, 2003.

438. The defendant, Clear Channel Communications, Inc., d/b/a WHJY-FM, and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting death of Ms. Ayer in one or more of the following respects, in that they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities;

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

g) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions;

h) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics; and

i) Attached its name to the event, thereby inducing patrons to attend the event because of the credibility given to the event by use of the name Clear Channel Communications, Inc., d/b/a WHJY-FM.

439. As a result of the negligence, carelessness and statutory violations of said defendant, as aforesaid, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately she died.

440. As a further result of the negligence, carelessness, and statutory violations of the defendant, as aforesaid, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which she would have otherwise been able to enjoy and in which she would have participated.

441. As a further result of the negligence, carelessness, and statutory violations of the defendant, as aforesaid, the death of the plaintiff decedent, who was a thirty-six (36) year-old woman, destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

442. As a result of her death, the Estate of Tina Marie Ayer incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

## CLAIMS AGAINST LUNA TECH, INC. AND LUNA TECH PYROTECHNIC, GMBH

### COUNT SEVENTY-FIVE
**By Tammy Ayer, as Administrator of the Estate of Tina Marie Ayer (Negligence)**

443. Paragraphs One (1) through Four Hundred Forty-Two (442) are hereby incorporated as if fully set forth herein.

444. The defendants, Luna Tech, Inc. and Luna Tech Pyrotechnic, GMBH, and/or their agents, servants, or employees, are liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from sale and use of the pyrotechnics product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the devices were highly flammable and could not be safely used by bands in night-clubs;

b) They sold said devices to bands and represented that said devices were safe for their intended uses;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the devices; and

e) They failed to warn that pyrotechnics could not be safely used in night-clubs or similar spaces where flammable foam insulation was installed.

445. As a direct and proximate result thereof, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to her untimely death and ultimately she died.

446. As a further direct and proximate result thereof, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which she would have otherwise been able to enjoy and in which she would have participated.

447. As a further direct and proximate result thereof, the death of the plaintiff decedent, who was a thirty-six (36) year-old woman, destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

448. As a result of her death, the Estate of Tina Marie Ayer incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

**COUNT SEVENTY-SIX**
**Tammy Ayer, as Administrator**
**of the Estate of Tina Marie Ayer**
**(Strict Products Liability)**

449. Paragraphs One (1) through Four Hundred Forty-Eight (448) are hereby incorporated as if fully set forth herein.

450. The defendants, Luna Tech, Inc. and Luna Tech Pyrotechnic, GMBH, and/or their agents, servants, or employees, are strictly liable and legally responsible for the injuries, damages, and

deaths resulting from sale and use of the pyrotechnics product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the devices were highly flammable and could not be safely used by bands in night-clubs;

b) They sold said devices to bands and represented that said devices were safe for their intended uses;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the devices; and

e) They failed to warn that pyrotechnics could not be safely used in night-clubs or similar spaces where flammable foam insulation was installed.

451. As a direct and proximate result thereof, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to her untimely death and ultimately she died.

452. As a further direct and proximate result thereof, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which she would have otherwise been able to enjoy and in which she would have participated.

453. As a further direct and proximate result thereof, the death of the plaintiff decedent, who was a thirty-six (36) year-old woman, destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

454. As a result of his death, the Estate of Tina Marie Ayer. incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

**CLAIMS AS TO JOINT VENTURE LIABILITY AS TO JEFFREY DERDERIAN, MICHAEL DERDERIAN, AND DERCO LLC D/B/A THE STATION, MANIC MUSIC MANAGEMENT, INC., JACK RUSSELL, MARK KENDALL, DAVID FILICE, ERIC POWERS, DANIEL BICHIELE, PAUL WOOLNOUGH, KNIGHT RECORDS, INC., ANHEUSER-BUSCH, INC., MCLAUGHLIN & MORAN, INC., CLEAR CHANNEL COMMUNICATIONS, INC., D/B/A WHJY-FM; MOTIVA ENTERPRISES, LLC AND SHELL OIL COMPANY, TOWN OF WEST WARWICK, DENNIS LAROCQUE, STATE OF RHODE ISLAND AND IRVING J. OWENS**

**COUNT SEVENTY-SEVEN**
**By Tammy Ayer, as Administrator of the Estate of Tina Marie Ayer (Negligence)**

455. Paragraphs One (1) through Four Hundred Fifty-Four (454) are hereby incorporated as if fully set forth herein.

456. Prior to the Great White concert that occurred on February 20, 2003, the defendants Jeffrey Derderian, Michael Derderian, and DERCO LLC d/b/a The Station, Manic Music Management, Inc., Jack Russell, Mark Kendall, David Filice, Eric Powers, Daniel Bichiele, Paul Woolnough, Knight Records, Inc., Anheuser-Busch, Inc., McLaughlin & Moran, Inc., Clear Channel Communications, Inc., d/b/a WHJY-FM, Motiva Enterprises, LLC and Shell Oil Company and Town of West Warwick, Dennis Larocque, State of Rhode Island and Irving J. Owens, entered into an express or implied agreement for the common purpose and design of planning, endorsing, sponsoring, promoting, and/or advertising the concert.

457. The defendants joined and participated in this joint venture for the purpose of pursuing their common business interests and for economic gain.

458. Each of the participating defendants had a right to voice concerns regarding the event and each controlled certain aspects of the planning, endorsement, sponsorship, promotion, and/or

advertising relating to the Great White concert, including but not limited to the selection and inspection of the venue, The Station.

459. The defendants, and/or their agents, servants, employees and/or contractors acting within the course and scope of their employment or agency, owed a legal duty to the Plaintiffs and are liable and legally responsible for the injuries, damages, and deaths resulting from negligent, careless and/or reckless acts or omissions in planning, endorsing, sponsoring, promoting and/or advertising the Great White concert that occurred on February 20, 2003, in one or more of the following respects:

a) Failed to properly manage, control, supervise and/or inspect The Station night-club prior to and during the Great White concert;

b) Installed or permitted to be installed highly flammable and toxic foam material around the stage of the night-club and failed to ensure that the sound-proofing material was fire resistant, in violation of R.I. Gen. Laws Section 23.28.6-15;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to inspect proper emergency lighting and exit signs that were operable in the event of fire or power outage, in violation of R.I. Gen. Laws Section 23-28.6-13;

f) Failed to adequately inspect The Station for safety hazards, or negligently performed same;

g) Failed to inspect for sprinklers or other fire prevention equipment and apparatus at The Station;

h) Failed to provide adequate exits and failed to inform patrons of The Station of the location of fire exits or require personnel present to do so;

i) Allowed unsafe numbers of persons on the premises during the Great White performance;

j) Allowed The Station to become overcrowded with patrons during performances;

k) Caused or allowed the parking of vehicles in an area around The Station structure so as to impede safe egress in the event of a fire;

l) Caused or allowed uneven floor surfaces in The Station which constituted a tripping hazard;

m) Knew or should have known of the dangerous conditions at The Station and failed to remedy those conditions;

n) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station; and

o) Were otherwise negligent in their selection and/or inspection of the venue for the Great White concert, The Station.

460. As a result of the negligence, carelessness and statutory violations of said defendants, as aforesaid, the Plaintiff's Decedent suffered excruciating and continual mental and physical pain and distress prior to her untimely death and ultimately she died.

461. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the Plaintiff's Decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which she would have otherwise been able to enjoy and in which she would have participated.

462. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the death of the Plaintiff Decedent, who was a thirty-six (36) year-old woman, destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

463. As a result of her death, the Estate of Tina Marie Ayer has incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

## CLAIMS AGAINST SHELL OIL CORPORATION AND MOTIVA ENTERPRISES, LLC.

### COUNT SEVENTY-EIGHT
**By Tammy Ayer, as Administrator of the Estate of Tina Marie Ayer (Negligence)**

464. Paragraphs One (1) through Four Hundred Fifty-Nine (459) are hereby incorporated as if fully set forth herein.

465. Upon information and belief, the defendant, Shell Oil Company, d/b/a Motiva Enterprises, LLC, was the owner/lessor of certain property located at 7380 Post Road, North Kingston. Upon information and belief, defendant, DERCO LLC., was the manager and lessee of the aforesaid property owned by, the defendant, Shell Oil Company, d/b/a Motiva Enterprises, LLC.

466. Upon information and belief, the defendant Shell Oil Company dominated, controlled and/or managed the practices, policies and finances of Motiva, LLC and the gas station operation at the 7380 Post Road facility, including but not limited to exercising joint control over the management, inventory, marketing, promotions, and pricing policies.

467. The defendants, Shell Oil Company and Motiva Enterprises, LLC., owed a legal duty to patrons of The Station because they engaged in the promotion of the Great White performance at The Station by distributing certain tickets in return for certain purchases of its merchandise, which promotion was expressly or impliedly approved by Shell Oil Company

and its subsidiary Motiva Enterprises, LLC in negligent disregard for the safety of the anticipated patrons at the performance.

468. The defendants, Shell Oil Company and Motiva Enterprises, LLC., endorsed, sponsored, promoted, and/or advertised the Great White concert and stood to profit monetarily these activities and marketing efforts.

469. Upon information and belief, the defendants, Shell Oil Company and Motiva Enterprises, LLC., expressly and/or impliedly represented and warranted to the public through its marketing, promotional activities and ticket sales that the venue selected for the show was reasonably safe and would not subject patrons to an unreasonable risk of serious injury or death.

470. The defendants, Shell Oil Company and Motiva Enterprises, LLC., knew or should have known that, if the venue for the performance did not have adequate fire protection and suppression equipment, that patrons would be subjected to a foreseeable, unreasonable risk of injury or even death.

471. The defendants, Shell Oil Company and Motiva Enterprises, LLC., knew or should have known that members of the public, including the Plaintiff's Decedent, were relying on it to exercise proper care, skill and diligence in the review and selection of a safe venue for concerts for which it sold tickets.

472. The defendants, Shell Oil Company and Motiva Enterprises, LLC., were negligent and careless in the manner in which they engaged in the promotion of the aforesaid performance, which negligence and carelessness caused the injuries and damages as hereinafter set forth.

473. The defendants, Shell Oil Company and Motiva Enterprises, LLC., through its agents, servants, employees or contractors acting within the course and scope of their employment or agency, owed a legal duty to the Plaintiff and is liable and legally responsible for negligence in causing the death of the Plaintiff's Decedent in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the nightclub;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the nightclub in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the nightclub by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities;

f) Failed to properly and adequately review, inspect and approve The Station as a safe venue for members of the public;

g) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

h) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions;

i) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics; and

j) Attached its name to the event, thereby inducing patrons to attend the event because of the credibility given to the event by use of the name Shell Oil.

474. As a result of the negligence, carelessness and statutory violations of said defendants, as aforesaid, the Plaintiff's Decedent suffered excruciating and continual mental and physical pain and distress prior to her untimely death and ultimately she died.

475. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the Plaintiff's Decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

476. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the death of the Plaintiff's Decedent, who was a thirty-six (36) year-old woman, destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

477. As a result of his death, the Estate of Tina Marie Ayer incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

## CLAIMS AGAINST TOWN OF WEST WARWICK AND FIRE INSPECTOR DENNIS LAROCQUE

### COUNT SEVENTY-NINE

**By Tammy Ayer, as Administrator of the Estate of Tina Marie Ayer (Negligence)**

478. Paragraphs One (1) through Four Hundred Seventy-Seven (477) are hereby incorporated as if fully set forth herein.

479. The Town of West Warwick and its Fire Inspector, Dennis Larocque, are responsible for the inspection of commercial facilities in the Town of West Warwick and enforcement of the building and fire code laws of the State of Rhode Island.

480. The Town of West Warwick and Fire Inspector, Dennis Larocque, owed a legal duty to the public in general and the patrons of The Station in particular to exercise reasonable care and due diligence by properly inspecting commercial properties in the Town of West Warwick.

481. The Town of West Warwick and Fire Inspector, Dennis Larocque, were negligent and careless in failing to properly inspect the Station and enforce the laws of the State of Rhode Island, which negligence and carelessness proximately caused the injuries and damages as hereinafter set forth.

482. The Town is liable for the negligence of its agents, servants, and employees, and owed a special duty to each Plaintiff.

483. The Town of West Warwick and Fire Inspector, Dennis Larocque, through its agents, servants, and employees were negligent and careless in one or more of the following ways, in that they:

a) Failed to enforce the building code and fire safety laws of the State of Rhode Island;

b) Failed to adequately inspect The Station;

c) Failed to conduct regular inspections of The Station;

d) Failed to discover and take action for the highly flammable and toxic materials existing on the premises of The Station, which materials should have been discovered by a reasonable inspection;

e) Failed to properly train personnel in fire safety laws, regulations and standards;

f) Failed to require sprinkler systems or other fire prevention devices at The Station;

g) Failed to employ adequate employees and/or personnel to adequately enforce the fire safety laws, regulations and standards;

h) Failed to appropriate adequate funds for the enforcement of fire safety laws, regulations and standards;

i) Knew or should have known of the use of pyrotechnics at The Station and failed to take action to prevent the same when it was unsafe to use pyrotechnics under the circumstances;

j) Failed to enforce Section 23-28-18-4 of the Rhode Island General Laws by failing to ensure that The Station, which provided performances to more than seventy-five (75) people, was free from combustible debris; and

k) Failed to require that The Station limit the number of patrons on the premises to a safe number of patrons.

484. As a result of the negligence, carelessness and statutory violations of said defendants, as aforesaid, the Plaintiff's Decedent suffered excruciating and continual mental and physical pain and distress prior to her untimely death and ultimately she died.

485. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the Plaintiff's Decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which she would have participated.

486. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the death of the Plaintiff's Decedent, who was a thirty-six (36) year-old woman, destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

487. As a result of his death, the Estate of Tina Marie Ayer, incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

488. The Fire Inspector, Dennis Larocque, is entitled to indemnity by the Town of West Warwick, pursuant to Section 45-15-16 of the Rhode Island General Laws.

489. Pursuant to Section 45-15-5 of the Rhode Island General Laws, the Plaintiffs have provided the Town of West Warwick with a valid Notice of Presentment of Claim, and more than forty (40) days have passed since said notice was provided.

**CLAIMS AGAINST STATE OF RHODE ISLAND**
**AND IRVING J. OWENS, FIRE MARSHAL**

**COUNT EIGHTY**
**By Tammy Ayer, as Administrator**
**of the Estate of Tina Marie Ayer**
**(Negligence)**

490. Paragraphs One (1) through Four Hundred Eighty-Nine (489) are hereby incorporated as more fully set forth herein.

491. The State of Rhode Island and its Fire Marshal, Irving J. Owens, are responsible for the inspection of commercial facilities in the Town of West Warwick and enforcement of the building and fire code laws of the State of Rhode Island.

492. Pursuant to Section 23-28.2-4 of the Rhode Island General Laws, the State of Rhode Island and Fire Marshal, Irving J. Owens, owed a legal duty to the public in general and the patrons of The Station in particular to exercise reasonable care and due diligence by properly inspecting or causing proper inspections commercial properties in the Town of West Warwick, and to enforce and perform the duties required by the Fire Safety Code.

493. The State and Fire Marshal were negligent and careless in failing to properly inspect the Station and enforce the laws of the State of Rhode Island, which negligence and carelessness proximately caused the injuries and damages as hereinafter set forth.

494. The State and Fire Marshal are liable for the negligence of its agents, servants, and employees, and owed a special duty to each Plaintiff.

495. The State and Fire Marshal, through their agents, servants, and employees were negligent and careless in one or more of the following ways, in that they:

a) Failed to enforce the building code and fire safety laws of the State of Rhode Island;

b) Failed to adequately inspect The Station;

c) Failed to conduct regular inspections of The Station;

d) Failed to discover and take action for the highly flammable and toxic materials existing on the premises of The Station, which materials should have been discovered by a reasonable inspection;

e) Failed to properly train personnel in fire safety laws, regulations and standards;

f) Failed to require sprinkler systems or other fire prevention devices at The Station;

g) Failed to employ adequate employees and/or personnel to adequately enforce the fire safety laws, regulations and standards;

h) Failed to appropriate adequate funds for the enforcement of fire safety laws, regulations and standards;

i) Knew or should have known of the use of pyrotechnics at The Station and failed to take action to prevent the same when it was unsafe to use pyrotechnics under the circumstances;

j) Failed to enforce Section 23-28-18-4 of the Rhode Island General Laws by failing to ensure that The Station, which provided performances to more than seventy-five (75) people, was free from combustible debris; and

k) Failed to require that The Station limit the number of patrons on the premises to a safe number of patrons.

496. As a result of the negligence, carelessness and statutory violations of said defendants, as aforesaid, the Plaintiff's Decedent suffered excruciating and continual mental and physical pain and distress prior to her untimely death and ultimately she died.

497. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the Plaintiff's Decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which she would have participated.

498. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the death of the Plaintiff's Decedent, who was a thirty-six (36) year-old woman, destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

499. As a result of her death, the Estate of Tina Marie Estate., incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

500. The Fire Marshal, Irving J. Owens, is entitled to indemnity by the Town of West Warwick pursuant to Section 23-28.2-17 of the Rhode Island General Laws.

501. Pursuant to Section 45-15-5 of the Rhode Island General Laws, the Plaintiffs have provided the Town of West Warwick with a valid Notice of Presentment of Claim, and more than forty (40) days have passed since said notice was provided.

## CLAIMS AGAINST AMERICAN FOAM

### COUNT EIGHTY-ONE

**Louis Rossi, as Co-Administrator
of the Estate of Joseph Rossi
(Negligence)**

502. Paragraphs One (1) through Five Hundred One (501) are hereby incorporated as if fully set forth herein.

503. The defendant American Foam Corporation, and/or its agents, servants, or employees, are liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

504. As a direct and proximate result thereof, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

505. As a further direct and proximate result thereof, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

506. As a further direct and proximate result thereof, the death of the plaintiff decedent, who was a thirty-five (35) year-old man, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

507. As a result of his death, the Estate of Joseph Rossi incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

**COUNT EIGHTY-TWO**
**By Louis Rossi, as Co-Administrator**
**by the Estate of Joseph Rossi**
**(Strict Products Liability)**

508. Paragraphs One (1) through Five Hundred Seven (507) are hereby incorporated as if fully set forth herein.

509. The defendant, American Foam Corporation, and/or its agents, servants, or employees, are strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

510. As a direct and proximate result thereof, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

511. As a further direct and proximate result thereof, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

512. As a further direct and proximate result thereof, the death of the plaintiff decedent, who was a thirty-five (35) year-old man, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

513. As a result of his death, the Estate of Joseph E. Rossi. incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

## CLAIMS AGAINST FOAMEX INTERNATIONAL

**COUNT EIGHTY-THREE**
**By Louis Rossi, as Co-Administrator of the Estate of Louis Rossi (Negligence)**

514. Paragraphs One (1) through Five Hundred Nine (509) are hereby incorporated as if fully set forth herein.

515. The defendant Foamex International, and/or its agents, servants, or employees, owed a legal duty to the Plaintiffs and are liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

516. As a direct and proximate result thereof, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

517. As a further direct and proximate result thereof, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

518. As a further direct and proximate result thereof, the death of the plaintiff decedent, who was a thirty-five (35) year-old man, destroyed his ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to his estate.

519. As a result of his death, the Estate of Louis Rossi incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

**COUNT EIGHTY-FOUR**
**By Louis Rossi, as Co-Administrator**
**of the Estate of Joseph Rossi**
**(Strict Products Liability)**

520. Paragraphs One (1) through Five Hundred Nineteen (519) are hereby incorporated as if fully set forth herein.

521. The aforesaid product was not altered or modified in any way by the users or any third party from the condition in which it was manufactured and sold.

522. At all times relevant herein, said substance was expected to and did reach the users without substantial change in condition in which it was sold or manufactured.

523. The defendant Foamex International is a product seller.

524. The defendant Foamex International, and/or its agents, servants, or employees, are strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

525. As a direct and proximate result thereof, plaintiff's decedent suffered excruciating continual mental and physical pain and distress prior to his untimely death and ultimately he died.

526. As a further direct and proximate result thereof, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

527. As a further direct and proximate result thereof, the death of the plaintiff decedent, who was a thirty-five (35) year-old man, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

528. As a result of his death, the Estate of Louis Rossi incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

## CLAIMS AGAINST BARRY H. WARNER

### COUNT EIGHT-FIVE
**By Louis Rossi, as Co-Administrator**
**of the Estate Joseph Rossi**
**(Negligence)**

529. Paragraphs One (1) through Five Hundred Twenty-Eight (528) are hereby incorporated as if fully set forth herein.

530. At all times relevant hereto, the defendant, Barry H. Warner, was employed by American Foam Corporation and was acting in the course and scope of his employment.

531. Prior to February 20, 2003, the defendant, Barry H. Warner, sold the foam material to the defendants, Jeffery Derderian, Michael Derderian, and/or DERCO, LLC., d/b/a The Station, to be used as sound-proofing material at the former Station night-club and represented to said defendants that the foam could be safely and appropriately used as sound-proofing material when he knew or should have known that in fact the foam was

highly flammable and toxic and could not be safely used for sound-proofing in a night-club where smoking and use of pyrotechnics was permitted.

532. The defendant, Barry H. Warner, is liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) He placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) He represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) He failed to provide proper and appropriate warnings to product users;

d) He knew or should have known of the dangerous propensities of said foam yet sold it with reckless disregard for the safety of the public, including the plaintiff's decedent;

e) He breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose;

f) He breached its express warranty that said foam was safe and effective for use;

g) He provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

h) He failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

i) He failed to provide sound-proofing material that was fire resistant when he knew the intended use of the product;

j) He failed to warn that pyrotechnics could not be safely used in spaces where the foam insulation was installed; and

k) He failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

533. As a direct and proximate result thereof, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

534. As a further direct and proximate result thereof, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

535. As a further direct and proximate result thereof, the death of the plaintiff decedent, who was a thirty-five (35) year-old man, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

536. As a result of his death, the Joseph Rossi incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

**COUNT EIGHTY-SIX**
**By Louis Rossi, as Co-Administrator**
**of the Estate of Joseph Rossi**
**(Strict Product Liability)**

537. Paragraphs One (1) through Five Hundred Thirty-Six (536) are hereby incorporated as if fully set forth herein.

538. At all times relevant hereto, the defendant, Barry H. Warner, was employed by American Foam Corporation and was acting in the course and scope of his employment.

539. Prior to February 20, 2003, the defendant, Barry H. Warner, sold the foam material to the defendants, Jeffery Derderian, Michael Derderian, and/or DERCO, d/b/a/ The Station, to

be used as sound-proofing material at the former Station night-club and represented to said defendants that the foam could be safely and appropriately used as sound-proofing material when he knew or should have known that in fact the foam was highly flammable and toxic and could not be safely used for sound-proofing in a night-club where smoking and use of pyrotechnics was permitted.

540. The defendant, Barry H. Warner, is strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) He placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) He represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) He failed to provide proper and appropriate warnings to product users;

d) He knew or should have known of the dangerous propensities of said foam yet sold it with reckless disregard for the safety of the public, including the plaintiff's decedent;

e) He breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose;

f) He breached its express warranty that said foam was safe and effective for use;

g) He provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

h) He failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

i) He failed to provide sound-proofing material that was fire resistant when he knew the intended use of the product;

j) He failed to warn that pyrotechnics could not be safely used in spaces where the foam insulation was installed; and

k) He failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

541. As a direct and proximate result thereof, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

542. As a further direct and proximate result thereof, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

543. As a further direct and proximate result thereof, the death of the plaintiff decedent, who was a thirty-five (35) year-old man, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

544. As a result of his death, the Estate of Joseph Rossi incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

## CLAIMS AGAINST JEFFREY DERDERIAN, MICHAEL DERDERIAN, AND DERCO, LLC, d/b/a THE STATION

### COUNT EIGHTY-SEVEN
**By Louis Rossi, as Co-Administrator of the Estate of Joseph Rossi (Negligence)**

545. Paragraphs One (1) through Five Hundred Forty-Four (544) are hereby incorporated as if fully set forth herein.

546. The defendants, Jeffrey Derderian, Michael Derderian, and/or DERCO, LLC., d/b/a The Station, and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting death of Mr. Rossi in one or more of the following respects, in that they:

a) Failed to properly manage, control, supervise and/or inspect The Station night-club prior to and during the Great White concert;

b) Installed highly flammable and toxic foam material around the stage of the night-club and failed to ensure that the sound-proofing material was fire resistant, in violation of R.I. Gen. Laws Section 23.28.6-15;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to install, maintain, or inspect proper emergency lighting and exit signs that were operable in the event of fire or power outage, in violation of R.I. Gen. Laws Section 23-28.6-13;

f) Failed to adequately inspect The Station for safety hazards;

g) Failed to install sprinklers or other fire prevention apparatus at The Station;

h) Failed to provide adequate exits and failed to inform patrons of The Station of the location of fire exits or require personnel present to do so;

i) Allowed unsafe numbers of persons on the premises during the Great White performance;

j) Allowed The Station to become overcrowded with patrons during performances;

k) Caused or allowed the parking of vehicles in an area around The Station structure so as to impede safe egress in the event of a fire;

l) Caused or allowed uneven floor surfaces in The Station which constituted a tripping hazard;

m) Knew or should have known of the dangerous conditions at The Station and failed to remedy those conditions; and

n) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

547. As a result of the negligence, carelessness and statutory violations of said defendants, as aforesaid, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

548. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

549. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the death of the plaintiff decedent, who was a thirty-five (35) year-old man, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

550. As a result of his death, the Estate of Joseph Rossi incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

## CLAIMS AGAINST MANIC MUSIC MANAGEMENT, INC

## COUNT EIGHTY-EIGHT

**By Louis Rossi, as Co-Administrator of the Estate of Joseph Rossi (Negligence)**

551. Paragraphs One (1) through Five Hundred Fifty (550) are hereby incorporated as if fully set forth herein.

552. The defendant, Manic Music Management, Inc., and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting death of Mr. Rossi in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3; and

e) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

553. As a result of the negligence, carelessness and statutory violations of said defendant, as aforesaid, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

554. As a further result of the negligence, carelessness, and statutory violations of the defendant, as aforesaid, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's

pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

555. As a further result of the negligence, carelessness, and statutory violations of the defendant, as aforesaid, the death of the plaintiff decedent, who was a thirty-six (36) year-old man, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

556. As a result of his death, the Estate of Joseph Rossi incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

## CLAIMS AGAINST JACK RUSSELL, MARK KENDALL, DAVID FILICE ERIC POWERS, a/k/a GREAT WHITE

### COUNT EIGHTY-NINE
**By Louis Rossi, as Co-Administrator of the Estate of Joseph Rossi (Negligence)**

557. Paragraphs One (1) through Five Hundred Fifty-Six (556) are hereby incorporated as if more fully set forth herein.

558. The defendants, Jack Russell, Mark Kendall, David Filice, Eric Powers, and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting death of Mr. Rossi in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3; and

e) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

559. As a result of the negligence, carelessness and statutory violations of said defendants, as aforesaid, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

560. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

561. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the death of the plaintiff decedent, who was a thirty-five (35) year-old man, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

562. As a result of his death, the Estate of Joseph Rossi incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

## CLAIMS AGAINST DANIEL BICHELE

### COUNT NINETY
**By Louis Rossi, as Co-Administrator of the Estate of Joseph Rossi (Negligence)**

563. Paragraphs One (1) through Five Hundred Sixty-Two (562) are hereby incorporated as if fully set forth herein.

564. The defendant, Daniel Bichele, and/or his agents, servants, or employees, is liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting death of Mr. Rossi in one or more of the following respects, in that he or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Negligently activated dangerous pyrotechnic devices in an overcrowded night-club where it could easily ignite toxic flammable sound-proofing insulation on the walls and ceiling; and

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

565. As a result of the negligence, carelessness and statutory violations of said defendant, as aforesaid, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

566. As a further result of the negligence, carelessness, and statutory violations of the defendant, as aforesaid, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's

pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

567. As a further result of the negligence, carelessness, and statutory violations of the defendant, as aforesaid, the death of the plaintiff decedent, who was a thirty-five (35) year-old man, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

568. As a result of his death, the Estate of Joseph Rossi incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

**CLAIMS AGAINST PAUL WOOLNOUGH, AND KNIGHT RECORDS, INC**

**COUNT NINETY-ONE**
**By Louis Rossi, as Co-Administrator of the Estate of Joseph Rossi (Negligence)**

569. Paragraphs One (1) through Five Hundred Sixty-Four (564) are hereby incorporated as if fully set forth herein.

570. The defendants, Paul Woolnough and/or Knight Records, Inc., and/or his or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting death of Mr. Rossi in one or more of the following respects, in that he or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Negligently activated dangerous pyrotechnic devices in an overcrowded night-club where it could easily ignite toxic flammable sound-proofing insulation on the walls and ceiling; and

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

571. As a result of the negligence, carelessness and statutory violations of said defendants, as aforesaid, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

572. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

573. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the death of the plaintiff decedent, who was a thirty-five (35) year-old man, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

574. As a result of his death, the Estate of Joseph Rossi incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

## CLAIMS AGAINST ANHEUSER-BUSCH , INC

### COUNT NINETY-TWO
**By Louis Rossi, as Co-Administrator of the Estate of Joseph Rossi (Negligence)**

575. Paragraphs One (1) through Five Hundred Seventy (570) are hereby incorporated as if fully set forth herein.

576. The defendant, Anheuser-Busch, Inc., stood to profit, monetarily or through increased brand awareness, from its sponsorship of and marketing efforts at the Great White concert at The Station on February 20, 2003.

577. The defendant, Anheuser-Busch, Inc., by and through its marketing and promotional activities, including distribution of specially-prepared beer and tickets to the Great White concert, caused or contributed to the dangerous overcrowding at The Station on February 20, 2003.

578. The defendant, Anheuser-Busch, Inc., and/or its agents, servants, or employees, is liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting death of Mr. Rossi in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities; and

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

579. As a result of the negligence, carelessness and statutory violations of said defendants, as aforesaid, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

580. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

581. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the death of the plaintiff decedent, who was a thirty-five (35) year-old man, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

582. As a result of his death, the Estate of Joseph Rossi incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

**CLAIMS AGAINST MCLAUGHLIN & MORAN, INC.**

**COUNT NINETY-THREE**
**By Louis Rossi, as Co-Administrator**
**of the Estate of Joseph Rossi**
**(Negligence)**

583. Paragraphs One (1) through Five Hundred Eighty-Two (582) are hereby incorporated as if fully set forth herein.

584. The defendant, McLaughlin & Moran, Inc., stood to profit, monetarily or through increased brand awareness, from its sponsorship of and marketing efforts at the Great White concert at The Station on February 20, 2003.

585. The defendant, McLaughlin & Moran, Inc., by and through its marketing and promotional activities, including distribution of specially-prepared beer and promotional tickets to the Great White concert, caused or contributed to the dangerous overcrowding at The Station on February 20, 2003.

586. The defendant, McLaughlin & Moran, Inc., and/or its agents, servants, or employees, is liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting death of Mr. Rossi in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities; and

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

587. As a result of the negligence, carelessness and statutory violations of said defendants, as aforesaid, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

588. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

589. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the death of the plaintiff decedent, who was a thirty-five (35) year-old man, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

590. As a result of his death, the Estate of Joseph Rossi incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

## CLAIMS AGAINST CLEAR CHANNEL COMMUNICATIONS, INC. d/b/a WHJY-FM

### COUNT NINETY-FOUR
**By Louis Rossi, as Co-Administrator of the Estate of Joseph Rossi (Negligence)**

591. Paragraphs One (1) through Five Hundred Ninety (590) are hereby incorporated as if fully set forth herein.

592. The defendant, Clear Channel Communications, Inc., d/b/a WHJY-FM, stood to profit, monetarily or through increased brand awareness, from its sponsorship of and marketing efforts at the Great White concert at The Station on February 20, 2003.

593. The defendant, Clear Channel Communications, Inc., d/b/a WHJY-FM, by and through their marketing and promotional activities, including distribution of promotional tickets to the Great White concert, caused or contributed to the dangerous overcrowding at The Station on February 20, 2003.

594. The defendant, Clear Channel Communications, Inc. d/b/a WHJY-FM, and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting death of Mr. Rossi in one or more of the following respects, in that they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities; and

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

595. As a result of the negligence, carelessness and statutory violations of said defendant, as aforesaid, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

596. As a further result of the negligence, carelessness, and statutory violations of the defendant, as aforesaid, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

597. As a further result of the negligence, carelessness, and statutory violations of the defendant, as aforesaid, the death of the plaintiff decedent, who was a thirty-five(35) year-old man, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

598. As a result of his death, the Estate of Joseph Rossi incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

**CLAIMS AGAINST LUNA TECH, INC.
AND LUNA TECH PYROTECHNIC, GMBH**

**COUNT NINETY-FIVE**
**By Louis Rossi, as Co-Administrator of the Estate of Joseph Rossi (Negligence)**

599. Paragraphs One (1) through Five Hundred Ninety-Four (594) are hereby incorporated as if fully set forth herein.

600. The defendants, Luna Tech, Inc. and Luna Tech Pyrotechnic, GMBH, and/or their agents, servants, or employees, are liable and legally responsible for negligence which was

a proximate cause of the injuries, damages, and deaths resulting from sale and use of the pyrotechnics product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the devices were highly flammable and could not be safely used by bands in night-clubs;

b) They sold said devices to bands and represented that said devices were safe for their intended uses;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the devices; and

e) They failed to warn that pyrotechnics could not be safely used in night-clubs or similar spaces where flammable foam insulation was installed.

601. As a direct and proximate result thereof, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

602. As a further direct and proximate result thereof, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

603. As a further direct and proximate result thereof, the death of the plaintiff decedent, who was a thirty-five (35) year-old man, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

604. As a result of his death, the Estate of Joseph Rossi incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

# COUNT NINETY-SIX
**By Louis Rossi, as Co-Administrator of the Estate of Joseph Rossi (Strict Products Liability)**

605. Paragraphs One (1) through Six Hundred Four (604) are hereby incorporated as if fully set forth herein.

606. The defendants, Luna Tech, Inc. and Luna Tech Pyrotechnic, GMBH, and/or their agents, servants, or employees, are strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale and use of the pyrotechnics product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the devices were highly flammable and could not be safely used by bands in night-clubs;

b) They sold said devices to bands and represented that said devices were safe for their intended uses;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the devices; and

e) They failed to warn that pyrotechnics could not be safely used in night-clubs or similar spaces where flammable foam insulation was installed.

607. As a direct and proximate result thereof, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

608. As a further direct and proximate result thereof, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the

enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

609. As a further direct and proximate result thereof, the death of the plaintiff decedent, who was a thirty-five (35) year-old man, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

610. As a result of his death, the Estate of Joseph Rossi incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

**CLAIMS AGAINST JOINT VENTURE LIABILITY AS TO JEFFREY DERDERIAN, MICHAEL DERDERIAN, AND DERCO LLC D/B/A THE STATION, MANIC MUSIC MANAGEMENT, INC., JACK RUSSELL, MARK KENDALL, DAVID FILICE, ERIC POWERS, DANIEL BICHIELE, PAUL WOOLNOUGH, KNIGHT RECORDS, INC., ANHEUSER-BUSCH, INC., MCLAUGHLIN & MORAN, INC., CLEAR CHANNEL COMMUNICATIONS, INC. D/B/A WHJY-FM MOTIVA ENTERPRISES, LLC AND SHELL OIL COMPANY, TOWN OF WEST WARWICK, DENNIS LAROCQUE, STATE OF RHODE ISLAND AND IRVING J. OWENS**

**COUNT NINETY-SEVEN**
**By Louis Rossi, as Co-Administrator of the Estate Of Joseph Rossi**
**(Negligence)**

611. Paragraphs One (1) through Six Hundred Ten (610) are hereby incorporated as if fully set forth herein.

612. Prior to the Great White concert that occurred on February 20, 2003, the defendants Jeffrey Derderian, Michael Derderian, and DERCO LLC d/b/a The Station, Manic Music Management, Inc., Jack Russell, Mark Kendall, David Filice, Eric Powers, Daniel Bichiele, Paul Woolnough, Knight Records, Inc., Anheuser-Busch, Inc., McLaughlin & Moran, Inc., Clear Channel Communications, Inc., d/b/a WHJY-FM, and Motiva Enterprises,

LLC and Shell Oil Company, Town of West Warwick, Dennis Larocque, State of Rhode Island and Irving J. Owens, entered into an express or implied agreement for the common purpose and design of planning, endorsing, sponsoring, promoting, and/or advertising the concert.

613. The defendants joined and participated in this joint venture for the purpose of pursuing their common business interests and for economic gain.

614. Each of the participating defendants had a right to voice concerns regarding the event and each controlled certain aspects of the planning, endorsement, sponsorship, promotion, and/or advertising relating to the Great White concert, including but not limited to the selection and inspection of the venue, The Station.

615. The defendants, and/or their agents, servants, employees and/or contractors acting within the course and scope of their employment or agency, owed a legal duty to the Plaintiffs and are liable and legally responsible for the injuries, damages, and deaths resulting from negligent, careless and/or reckless acts or omissions in planning, endorsing, sponsoring, promoting and/or advertising the Great White concert that occurred on February 20, 2003, in one or more of the following respects:

a) Failed to properly manage, control, supervise and/or inspect The Station night-club prior to and during the Great White concert;

b) Installed or permitted to be installed highly flammable and toxic foam material around the stage of the night-club and failed to ensure that the sound-proofing material was fire resistant, in violation of R.I. Gen. Laws Section 23.28.6-15;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to inspect proper emergency lighting and exit signs that were operable in the event of fire or power outage, in violation of R.I. Gen. Laws Section 23-28.6-13;

f) Failed to adequately inspect The Station for safety hazards, or negligently performed same;

g) Failed to inspect for sprinklers or other fire prevention equipment and apparatus at The Station;

h) Failed to provide adequate exits and failed to inform patrons of The Station of the location of fire exits or require personnel present to do so;

i) Allowed unsafe numbers of persons on the premises during the Great White performance;

j) Allowed The Station to become overcrowded with patrons during performances;

k) Caused or allowed the parking of vehicles in an area around The Station structure so as to impede safe egress in the event of a fire;

l) Caused or allowed uneven floor surfaces in The Station which constituted a tripping hazard;

m) Knew or should have known of the dangerous conditions at The Station and failed to remedy those conditions;

n) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station; and

o) Were otherwise negligent in their selection and/or inspection of the venue for the Great White concert, The Station.

616. As a result of the negligence, carelessness and statutory violations of said defendants, as aforesaid, the Plaintiff's Decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

617. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the Plaintiff's Decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

618. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the death of the Plaintiff Decedent, who was a thirty-five (35) year-old man, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

619. As a result of his death, the Estate of Joseph Rossi has incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

## CLAIMS AGAINST SHELL OIL CORPORATION AND MOTIVE ENTERPRISES, LLC

### COUNT NINETY-EIGHT
**By Louis Rossi, as Co-Administrator**
**by Estate of Joseph Rossi**
**(Negligence)**

620. Paragraphs One (1) through Six Hundred Nineteen (619) are hereby incorporated as if fully set forth herein.

621. Upon information and belief, the defendant, Shell Oil Company, d/b/a Motiva Enterprises, LLC, was the owner/lessor of certain property located at 7380 Post Road, North Kingstown, Rhode Island.

622. Upon information and belief, defendant DERCO LLC was the manager and lessee of the aforesaid property owned by, the defendant, Shell Oil Company, d/b/a Motiva Enterprises, LLC.

623. Upon information and belief, the defendant Shell Oil Company dominated, controlled and/or managed the practices, policies and finances of Motiva, LLC and the gas station operation at the 7380 Post Road facility, including but not limited to exercising joint control over the management, inventory, marketing, promotions, and pricing policies.

624. The defendants, Shell Oil Company and Motiva Enterprises, LLC., owed a legal duty to patrons of The Station because they engaged in the promotion of the Great White performance at The Station by distributing certain tickets in return for certain purchases of its merchandise, which promotion was expressly or impliedly approved by Shell Oil Company and its subsidiary Motiva Enterprises, LLC in negligent disregard for the safety of the anticipated patrons at the performance.

625. The defendants, Shell Oil Company and Motiva Enterprises, LLC., endorsed, sponsored, promoted, and/or advertised the Great White concert and stood to profit monetarily these activities and marketing efforts.

626. Upon information and belief, the defendants, Shell Oil Company and Motiva Enterprises, LLC., expressly and/or impliedly represented and warranted to the public through its marketing, promotional activities and ticket sales that the venue selected for the show was reasonably safe and would not subject patrons to an unreasonable risk of serious injury or death.

627. The defendants, Shell Oil Company and Motiva Enterprises, LLC., knew or should have known that, if the venue for the performance did not have adequate fire protection and suppression equipment, that patrons would be subjected to a foreseeable, unreasonable risk of injury or even death.

628. The defendants, Shell Oil Company and Motiva Enterprises, LLC., knew or should have known that members of the public, including the Plaintiff's Decedent, were relying on it to exercise proper care, skill and diligence in the review and selection of a safe venue for concerts for which it sold tickets.

629. The defendants, Shell Oil Company and Motiva Enterprises, LLC., were negligent and careless in the manner in which they engaged in the promotion of the aforesaid performance, which negligence and carelessness caused the injuries and damages as hereinafter set forth.

630. The defendants, Shell Oil Company and Motiva Enterprises, LLC., through its agents, servants, employees or contractors acting within the course and scope of their employment or agency, owed a legal duty to the Plaintiff and is liable and legally responsible for negligence in causing the death of the Plaintiff's Decedent in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the nightclub;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the nightclub in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the nightclub by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities;

f) Failed to properly and adequately review, inspect and approve The Station as a safe venue for members of the public;

g) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

h) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions;

i) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics; and

j) Attached its name to the event, thereby inducing patrons to attend the event because of the credibility given to the event by use of the name Shell Oil.

631. As a result of the negligence, carelessness and statutory violations of said defendants, as aforesaid, the Plaintiff's Decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

632. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the Plaintiff's Decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

633. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the death of the Plaintiff's Decedent, who was a thirty-five (35) year-old man, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

634. As a result of his death, the Estate of Joseph Rossi incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

**CLAIM AGAINST TOWN OF WEST WARWICK**
**AND FIRE INSPECTOR, DENNIS LAROCQUE**

**COUNT NINETY-NINE**
**By Louis Ross, as Administrator**
**of the Estate of Joseph Rossi**
**(Negligence)**

635. Paragraphs One (1) through Six Hundred Thirty (630) are hereby incorporated as if fully set forth herein.

636. The Town of West Warwick and its Fire Inspector, Dennis Larocque, are responsible for the inspection of commercial facilities in the Town of West Warwick and enforcement of the building and fire code laws of the State of Rhode Island.

637. The Town of West Warwick and Fire Inspector, Dennis Larocque, owed a legal duty to the public in general and the patrons of The Station in particular to exercise reasonable care and due diligence by properly inspecting commercial properties in the Town of West Warwick.

638. The Town of West Warwick and Fire Inspector, Dennis Larocque, were negligent and careless in failing to properly inspect the Station and enforce the laws of the State of

Rhode Island, which negligence and carelessness proximately caused the injuries and damages as hereinafter set forth.

639. The Town is liable for the negligence of its agents, servants, and employees, and owed a special duty to each Plaintiff.

640. The Town of West Warwick and Fire Inspector, Dennis Larocque, through its agents, servants, and employees were negligent and careless in one or more of the following ways, in that they:

a) Failed to enforce the building code and fire safety laws of the State of Rhode Island;

b) Failed to adequately inspect The Station;

c) Failed to conduct regular inspections of The Station;

d) Failed to discover and take action for the highly flammable and toxic materials existing on the premises of The Station, which materials should have been discovered by a reasonable inspection;

e) Failed to properly train personnel in fire safety laws, regulations and standards;

f) Failed to require sprinkler systems or other fire prevention devices at The Station;

g) Failed to employ adequate employees and/or personnel to adequately enforce the fire safety laws, regulations and standards;

h) Failed to appropriate adequate funds for the enforcement of fire safety laws, regulations and standards;

i) Knew or should have known of the use of pyrotechnics at The Station and failed to take action to prevent the same when it was unsafe to use pyrotechnics under the circumstances;

j) Failed to enforce Section 23-28-18-4 of the Rhode Island General Laws by failing to ensure that The Station, which provided performances to more than seventy-five (75) people, was free from combustible debris; and

k) Failed to require that The Station limit the number of patrons on the premises to a safe number of patrons.

641. As a result of the negligence, carelessness and statutory violations of said defendants, as aforesaid, the Plaintiff's Decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

642. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the Plaintiff's Decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

643. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the death of the Plaintiff's Decedent, who was a thirty-five (35) year-old man, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

644. As a result of his death, the Estate of Joseph Rossi incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

645. The Fire Inspector, Dennis Larocque, is entitled to indemnity by the Town of West Warwick, pursuant to Section 45-15-16 of the Rhode Island General Laws.

646. Pursuant to Section 45-15-5 of the Rhode Island General Laws, the Plaintiffs have provided the Town of West Warwick with a valid Notice of Presentment of Claim, and more than forty (40) days have passed since said notice was provided.

## CLAIMS AGAINST STATE OF RHODE ISLAND AND FIRE MARSHAL, IRVIN J. OWENS

### COUNT ONE HUNDRED

**By Louis Rossi, as Administrator of the Estate of Joseph Rossi (Negligence)**

647. Paragraphs One (1) through Six Hundred Forty-Six (646) are hereby incorporated as if fully set forth herein.

648. The State of Rhode Island and its Fire Marshal, Irving J. Owens, are responsible for the inspection of commercial facilities in the Town of West Warwick and enforcement of the building and fire code laws of the State of Rhode Island.

649. Pursuant to Section 23-28.2-4 of the Rhode Island General Laws, the State of Rhode Island and Fire Marshal, Irving J. Owens, owed a legal duty to the public in general and the patrons of The Station in particular to exercise reasonable care and due diligence by properly inspecting or causing proper inspections commercial properties in the Town of West Warwick, and to enforce and perform the duties required by the Fire Safety Code.

650. The State and Fire Marshal were negligent and careless in failing to properly inspect the Station and enforce the laws of the State of Rhode Island, which negligence and carelessness proximately caused the injuries and damages as hereinafter set forth.

651. The State and Fire Marshal are liable for the negligence of its agents, servants, and employees, and owed a special duty to each Plaintiff.

652. The State and Fire Marshal, through their agents, servants, and employees were negligent and careless in one or more of the following ways, in that they:

a) Failed to enforce the building code and fire safety laws of the State of Rhode Island;

b) Failed to adequately inspect The Station;

c) Failed to conduct regular inspections of The Station;

d) Failed to discover and take action for the highly flammable and toxic materials existing on the premises of The Station, which materials should have been discovered by a reasonable inspection;

e) Failed to properly train personnel in fire safety laws, regulations and standards;

f) Failed to require sprinkler systems or other fire prevention devices at The Station;

g) Failed to employ adequate employees and/or personnel to adequately enforce the fire safety laws, regulations and standards;

h) Failed to appropriate adequate funds for the enforcement of fire safety laws, regulations and standards;

i) Knew or should have known of the use of pyrotechnics at The Station and failed to take action to prevent the same when it was unsafe to use pyrotechnics under the circumstances;

j) Failed to enforce Section 23-28-18-4 of the Rhode Island General Laws by failing to ensure that The Station, which provided performances to more than seventy-five (75) people, was free from combustible debris; and

k) Failed to require that The Station limit the number of patrons on the premises to a safe number of patrons.

653. As a result of the negligence, carelessness and statutory violations of said defendants, as aforesaid, the Plaintiff's Decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

654. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the Plaintiff's Decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

655. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the death of the Plaintiff's Decedent, who was a thirty-five (35) year-old man, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

656. As a result of her death, the Estate of Joseph Rossi, incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

657. The Fire Marshal, Irving J. Owens, is entitled to indemnity by the Town of West Warwick pursuant to Section 23-28.2-17 of the Rhode Island General Laws.

658. Pursuant to Section 45-15-5 of the Rhode Island General Laws, the Plaintiffs have provided the Town of West Warwick with a valid Notice of Presentment of Claim, and more than forty (40) days have passed since said notice was provided.

## CLAIMS AGAINST AMERICAN FOAM CORPORATION

### COUNT ONE HUNDRED ONE
**By Christopher Scott**
**(Negligence)**

659. Paragraphs One (1) through Six Hundred Fifty-Eight (658) are hereby incorporated as if fully set forth herein.

660. The defendant, American Foam Corporation, and/or its agents, servants, or employees are liable and legally responsible for negligence which was a proximate cause of the injuries and damages resulting from sale and use of the foam insulation product in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

661. As a direct and proximate result thereof, the plaintiff, Christopher Scott, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

662. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature.

663. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, suffered severe emotional trauma due to the fear that he was going to be burned and/or crushed to death. He has suffered from nightmares, flashbacks, and night sweats.

664. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

## COUNT ONE HUNDRED TWO
**By Christopher Scott**
**(Strict Products Liability)**

665. Paragraphs One (1) through Six Hundred Sixty-Four (664) are hereby incorporated as if fully set forth herein.

666. The defendant, American Foam Corporation, and/or its agents, servants, or employees, are strictly liable and legally responsible for the injuries and damages resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

667. As a direct and proximate result thereof, the plaintiff, Christopher Scott, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

668. As a further direct and proximate result thereof, the plaintiff, Christopher Scott has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

669. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

670. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

## CLAIMS AGAINST FOAMEX INTERNATIONAL

## COUNT ONE HUNDRED THREE
**By Christopher Scott**
**(Negligence)**

671. Paragraphs One (1) through Six Hundred Seventy (670) are hereby incorporated as if fully set forth herein.

672. The defendant, Foamex International, and/or its agents, servants, or employees, owed a legal duty to the Plaintiffs and are liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

673. As a direct and proximate result thereof, the plaintiff, Christopher Scott, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

674. As a further direct and proximate result thereof, the plaintiff, Christopher Scott has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

675. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

676. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

**COUNT ONE HUNDRED FOUR**
**By Christopher Scott**
**(Strict Products Liability)**

677. Paragraphs One (1) through Six Hundred Seventy-Six (676) are hereby incorporated as if fully set forth herein.

678. The aforesaid product was not altered or modified in any way by the users or any third party from the condition in which it was manufactured and sold.

679. At all times relevant herein, said substance was expected to and did reach the users without substantial change in condition in which it was sold or manufactured.

680. The defendant, Foamex International, is a product seller.

681. The defendant, Foamex International, and/or its agents, servants, or employees, are strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

682. As a direct and proximate result thereof, the plaintiff, Christopher Scott, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

683. As a further direct and proximate result thereof, the plaintiff, Christopher Scott has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

684. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

685. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

## CLAIMS AGAINST BARRY H. WARNER

## COUNT ONE HUNDRED FIVE
**(Negligence as to Barry H. Warner by Christopher Scott)**

686. Paragraphs One (1) through Six Hundred Eighty-Five (685) are hereby incorporated as if fully set forth herein.

687. The defendant, Barry H. Warner, is liable and legally responsible for negligence which was a proximate cause of the injuries and damages resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) He placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) He represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) He failed to provide proper and appropriate warnings to product users;

d) He knew or should have known of the dangerous propensities of said foam yet sold it with reckless disregard for the safety of the public, including the plaintiff's decedent;

e) He breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose;

f) He breached its express warranty that said foam was safe and effective for use;

g) He provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

h) He failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

i) He failed to provide sound-proofing material that was fire resistant when he knew the intended use of the product;

j) He failed to warn that pyrotechnics could not be safely used in spaces where the foam insulation was installed; and

k) He failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

688. As a direct and proximate result thereof, the plaintiff, Christopher Scott, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

689. As a further direct and proximate result thereof, the plaintiff, Christopher has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

690. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

691. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

**COUNT ONE HUNDRED SIX**
**By Christopher Scott**
**(Strict Products Liability)**

692. Paragraphs One (1) through Six Hundred Ninety-One (691) are hereby incorporated as if fully set forth herein.

693. At all times relevant hereto, the defendant, Barry H. Warner, was employed by American Foam Corporation and was acting in the course and scope of his employment.

694. Prior to February 20, 2003, the defendant, Barry H. Warner, sold the foam material to the defendants, Jeffery Derderian, Michael Derderian, and/or DERCO, d/b/a/ The Station, to be used as sound-proofing material at the former Station night-club and represented to said defendants that the foam could be safely and appropriately used as sound-proofing

material when he knew or should have known that in fact the foam was highly flammable and toxic and could not be safely used for sound-proofing in a night-club where smoking and use of pyrotechnics was permitted.

695. The defendant, Barry H. Warner, is strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) He placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) He represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) He failed to provide proper and appropriate warnings to product users;

d) He knew or should have known of the dangerous propensities of said foam yet sold it with reckless disregard for the safety of the public, including the plaintiff's decedent;

e) He breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose;

f) He breached its express warranty that said foam was safe and effective for use;

g) He provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

h) He failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

i) He failed to provide sound-proofing material that was fire resistant when he knew the intended use of the product;

j) He failed to warn that pyrotechnics could not be safely used in spaces where the foam insulation was installed; and

k) He failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

696. As a direct and proximate result thereof, the plaintiff, Christopher Scott, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

697. As a further direct and proximate result thereof, the plaintiff, Christopher Scott has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

698. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

699. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

**CLAIMS AGAINST JEFFREY DERDERIAN, MICHAEL DERDERIAN AND DERCO, LLC, d/b/a THE STATION**

**COUNT ONE HUNDRED SEVEN**
**By Christopher Scott**
**(Negligence)**

700. Paragraphs One (1) through Six Hundred Ninety-Nine (699) are hereby incorporated as if fully set forth herein.

701. The defendants, Jeffrey Derderian, Michael Derderian, and/or DERCO, LLC., d/b/a The Station, and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries of Christopher Scott in one or more of the following respects, in that they:

a) Failed to properly manage, control, supervise and/or inspect The Station night-club prior to and during the Great White concert;

b) Installed highly flammable and toxic foam material around the stage of the night-club and failed to ensure that the sound-proofing material was fire resistant, in violation of R.I. Gen. Laws Section 23.28.6-15;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to install, maintain, or inspect proper emergency lighting and exit signs that were operable in the event of fire or power outage, in violation of R.I. Gen. Laws Section 23-28.6-13;

f) Failed to adequately inspect The Station for safety hazards;

g) Failed to install sprinklers or other fire prevention apparatus at The Station;

h) Failed to provide adequate exits and failed to inform patrons of The Station of the location of fire exits or require personnel present to do so;

i) Allowed unsafe numbers of persons on the premises during the Great White performance;

j) Allowed The Station to become overcrowded with patrons during performances;

k) Caused or allowed the parking of vehicles in an area around The Station structure so as to impede safe egress in the event of a fire;

l) Caused or allowed uneven floor surfaces in The Station which constituted a tripping hazard;

m) Knew or should have known of the dangerous conditions at The Station and failed to remedy those conditions; and

n) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

702. As a direct and proximate result thereof, the plaintiff, Christopher Scott, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

703. As a further direct and proximate result thereof, the plaintiff, Christopher Scott has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

704. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

705. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

## CLAIMS AGAINST MANIC MUSIC MANAGEMENT, INC.

## COUNT ONE HUNDRED EIGHT
**By Christopher Scott**
**(Negligence)**

706. Paragraphs One (1) through Seven Hundred Five (705) are hereby incorporated as if fully set forth herein.

707. The defendant, Manic Music Management, Inc., and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries of Christopher Scott in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3; and

e) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

708. As a direct and proximate result thereof, the plaintiff, Christopher Scottt, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

709. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

710. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

711. As a further direct and proximate result thereof, the plaintiff, Christopher Scot, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

**CLAIMS AGAINST JACK RUSSELL, MARK KENDALL, DAVID FILICE ERIC POWERS, a/k/a GREAT WHITE**

**COUNT ONE HUNDRED NINE**
**By Christopher Scott**
**(Negligence)**

712. Paragraphs One (1) through Seven Hundred Eleven (711) are hereby incorporated as if fully set forth herein.

713. The defendants, Jack Russell, Mark Kendall, David Filice, Eric Powers, and/or their agents, servants or employees are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and losses of Christopher Scott in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3; and

e) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

714. As a direct and proximate result thereof, the plaintiff, Christopher Scott, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

715. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

716. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

717. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

## CLAIMS AGAINST DANIEL BICHELE

## COUNT ONE HUNDRED TWENTY-NINE
**By Christopher Scott**
**(Negligence)**

718. Paragraphs One (1) through Seven Hundred Thirteen (713) are hereby incorporated as if fully set forth herein.

719. The defendant, Daniel Bichele, and/or his agents, servants, or employees, is liable or legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and losses of Christopher Scott in one or more of the respects, in that he or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Negligently activated dangerous pyrotechnic devices in an overcrowded night-club where it could easily ignite toxic flammable sound-proofing insulation on the walls and ceiling; and

f) Failed to protect the plaintiff and other members of the public from the foreseeable risk of serious injury or death at The Station.

720. As a direct and proximate result thereof, the plaintiff, Christopher Scottt, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

721. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

722. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

723. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

## CLAIMS AGAINST PAUL WOOLNOUGH AND KNIGHT RECORDS, INC.

## COUNT ONE HUNDRED ELEVEN
**By Christopher Scott**
**(Negligence)**

724. Paragraphs One (1) through Seven Hundred Twenty-Three (723) are hereby incorporated as if fully set forth herein.

725. The defendants, Paul Woolnough and/or Knight Records, Inc., and/or his or their agents, servants, or employees, are liable or legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and losses of Christopher Scott in one or more of the respects, in that he or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Negligently activated dangerous pyrotechnic devices in an overcrowded night-club where it could easily ignite toxic flammable sound-proofing insulation on the walls and ceiling; and

f) Failed to protect the plaintiff and other members of the public from the foreseeable risk of serious injury or death at The Station.

726. As a direct and proximate result thereof, the plaintiff, Christopher Scott, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

727. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

728. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

729. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

## CLAIMS AGAINST ANHEUSER-BUSCH, INC.

### COUNT ONE HUNDRED TWELVE
**By Christopher Scott**
**(Negligence)**

730. Paragraphs One (1) through Seven Hundred Twenty-Nine (729) are hereby incorporated as if fully set forth herein.

731. The defendant, Anheuser-Busch, Inc., and/or its agents, servants, or employees, is liable or legally responsible for negligence in causing the fire at The Station night-club and the

resulting injuries and losses of Christopher Scott in one or more of the respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities; and

f) Failed to protect the plaintiff and other members of the public from the foreseeable risk of serious injury or death at The Station.

732. As a direct and proximate result thereof, the plaintiff, Christopher Scott, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

733. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

734. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

735. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

## CLAIMS AGAINST MCLAUGHLIN & MORAN, INC.

## COUNT ONE HUNDRED THIRTEEN
**By Christopher Scott**
**(Negligence)**

736. Paragraphs One (1) through Seven Hundred Thirty-Five (735) are hereby incorporated as if fully set forth herein.

737. The defendant, McLaughlin & Moran, Inc., and/or its agents, servants, or employees, is liable or legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and losses of Christopher Scott in one or more of the respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities; and

f) Failed to protect the plaintiff and other members of the public from the foreseeable risk of serious injury or death at The Station.

738. As a direct and proximate result thereof, the plaintiff, Christopher Scott, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

739. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

740. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

741. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

## CLAIMS AGAINST CLEAR CHANNEL COMMUNICATIONS, INC

### COUNT ONE HUNDRED FOURTEEN
**By Christopher Scott**
**(Negligence)**

742. Paragraphs One (1) through Seven Hundred Forty-One (741) are hereby incorporated as if fully set forth herein.

743. The defendant, Clear Channel Communications, Inc., d/b/a WHJY-FM, and/or their agents, servants, or employees, are liable or legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and losses of Christopher Scott in one or more of the respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities; and

f) Failed to protect the plaintiff and other members of the public from the foreseeable risk of serious injury or death at The Station.

744. As a direct and proximate result thereof, the plaintiff, Christopher Scott, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

745. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

746. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

747. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

## CLAIMS AGAINST LUNA TECH, INC. AND LUNA TECH PYROTECHNIC, GMBH

### COUNT ONE HUNDRED FIFTEEN
**By Christopher Scott**
**(Negligence)**

748. Paragraphs One (1) through Seven Hundred Forty-Seven (747) are hereby incorporated as if fully set forth herein.

749. The defendants, Luna Tech, Inc. and Luna Tech Pyrotechnic, GMBH, and/or their agents, servants, or employees, are liable or legally responsible for negligence which as the

proximate cause of the injuries, damages and losses of the plaintiff, Christopher Scott, resulting from sale and use of the pyrotechnics product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the devices were highly flammable and could not be safely used by bands in night-clubs;

b) They sold said devices to bands and represented that said devices were safe for their intended uses;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the devices; and

e) They failed to warn that pyrotechnics could not be safely used in night-clubs or similar spaces where flammable foam insulation was installed.

750. As a direct and proximate result thereof, the plaintiff, Christopher Scott, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

751. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

752. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

753. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

**COUNT ONE HUNDRED SIXTEEN**
**By Christopher Scott**

**(Strict Products Liability)**

754. Paragraphs One (1) through Seven Hundred Fifty-Three (753) are hereby incorporated as if fully set forth herein.

755. The defendants, Luna Tech, Inc. and Luna Tech Pyrotechnic, GMBH, and/or their agents, servants, or employees, are strictly liable or legally responsible for the injuries, damages and losses of the plaintiff, Christopher Scott, resulting from sale and use of the pyrotechnics product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the devices were highly flammable and could not be safely used by bands in night-clubs;

b) They sold said devices to bands and represented that said devices were safe for their intended uses;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the devices; and

e) They failed to warn that pyrotechnics could not be safely used in night-clubs or similar spaces where flammable foam insulation was installed.

756. As a direct and proximate result thereof, the plaintiff, Christopher Scott, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

757. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

758. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

759. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

**CLAIMS AGAINST JOINT VENTURE LIABILITY AS TO JEFFREY DERDERIAN, MICHAEL DERDERIAN, AND DERCO LLC D/B/A THE STATION, MANIC MUSIC MANAGEMENT, INC., JACK RUSSELL, MARK KENDALL, DAVID FILICE, ERIC POWERS, DANIEL BICHIELE, PAUL WOOLNOUGH, KNIGHT RECORDS, INC., ANHEUSER-BUSCH, INC., MCLAUGHLIN & MORAN, INC., CLEAR CHANNEL COMMUNICATIONS, INC., D/B/A WHJY-FM, MOTIVA ENTERPRISES, LLC., AND SHELL OIL COMPANY AND THE TOWN OF WEST WARWICK AND THE STATE OF RHODE ISLAND**

**COUNT ONE HUNDRED SEVENTEEN**
**By Christopher Scott**
**(Negligence)**

760. Paragraphs One (1) through Seven Hundred Fifty-Nine (759) are hereby incorporated as if fully set forth herein.

761. Prior to the Great White concert that occurred on February 20, 2003, the defendants, Jeffrey Derderian, Michael Derderian, and DERCO LLC. d/b/a The Station, Manic Music Management, Inc., Jack Russell, Mark Kendall, David Filice, Eric Powers, Daniel Bichiele, Paul Woolnough, Knight Records, Inc., Anheuser-Busch, Inc., McLaughlin & Moran, Inc., Clear Channel Communications, Inc., d/b/a WHJY-FM, and Motiva Enterprises, LLC and Shell Oil Company and The Town of West Warwick and State of Rhode Island, entered into an express or implied agreement for the common purpose and design of planning, endorsing, sponsoring, promoting, and/or advertising the concert.

762. The defendants joined and participated in this joint venture for the purpose of pursuing their common business interests and for economic gain.

763. Each of the participating defendants had a right to voice concerns regarding the event and each controlled certain aspects of the planning, endorsement, sponsorship, promotion, and/or advertising relating to the Great White concert, including but not limited to the selection and inspection of the venue, The Station.

764. The defendants, and/or their agents, servants, employees and/or contractors acting within the course and scope of their employment or agency, owed a legal duty to the Plaintiffs and are liable and legally responsible for the injuries, damages, and deaths resulting from negligent, careless and/or reckless acts or omissions in planning, endorsing, sponsoring, promoting and/or advertising the Great White concert that occurred on February 20, 2003, in one or more of the following respects:

a) Failed to properly manage, control, supervise and/or inspect The Station night-club prior to and during the Great White concert;

b) Installed or permitted to be installed highly flammable and toxic foam material around the stage of the night-club and failed to ensure that the sound-proofing material was fire resistant, in violation of R.I. Gen. Laws Section 23.28.6-15;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to inspect proper emergency lighting and exit signs that were operable in the event of fire or power outage, in violation of R.I. Gen. Laws Section 23-28.6-13;

f) Failed to adequately inspect The Station for safety hazards, or negligently performed same;

g) Failed to inspect for sprinklers or other fire prevention equipment and apparatus at The Station;

h) Failed to provide adequate exits and failed to inform patrons of The Station of the location of fire exits or require personnel present to do so;

i) Allowed unsafe numbers of persons on the premises during the Great White performance;

j) Allowed The Station to become overcrowded with patrons during performances;

k) Caused or allowed the parking of vehicles in an area around The Station structure so as to impede safe egress in the event of a fire;

l) Caused or allowed uneven floor surfaces in The Station which constituted a tripping hazard;

m) Knew or should have known of the dangerous conditions at The Station and failed to remedy those conditions;

n) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station; and

o) Were otherwise negligent in their selection and/or inspection of the venue for the Great White concert, The Station.

765. As a direct and proximate result thereof, the plaintiff, Christopher Scott, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

766. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

767. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

768. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

**CLAIMS AGAINST SHELL OIL CORPORATION AND MOTIVA ENTERPRISES, LLC.**

**COUNT ONE HUNDRED EIGHTEEN**
**By Christopher Scott**

769. Paragraphs One (1) through Seven Hundred Sixty-Eight (768) are hereby incorporated as if fully set forth herein.

770. Upon information and belief, the defendant, Shell Oil Company, d/b/a Motiva Enterprises, LLC., was the owner/lessor of certain property located at 7380 Post Road, North Kingstown, Rhode Island.

771. Upon information and belief, defendant, DERCO LLC., was the manager and lessee of the aforesaid property owned by, the defendant, Shell Oil Company, d/b/a Motiva Enterprises, LLC.

772. Upon information and belief, the defendant, Shell Oil Company, dominated, controlled and/or managed the practices, policies and finances of Motiva, LLC. and the gas station operation at the 7380 Post Road facility, including but not limited to exercising joint control over the management, inventory, marketing, promotions, and pricing policies.

773. The defendants, Shell Oil Company and Motiva Enterprises, LLC., owed a legal duty to patrons of The Station because they engaged in the promotion of the Great White performance at The Station by distributing certain tickets in return for certain purchases

of its merchandise, which promotion was expressly or impliedly approved by Shell Oil Company and its subsidiary Motiva Enterprises, LLC. in negligent disregard for the safety of the anticipated patrons at the performance.

774. The defendants, Shell Oil Company and Motiva Enterprises, LLC., endorsed, sponsored, promoted, and/or advertised the Great White concert and stood to profit monetarily these activities and marketing efforts.

775. Upon information and belief, the defendants, Shell Oil Company and Motiva Enterprises, LLC., expressly and/or impliedly represented and warranted to the public through its marketing, promotional activities and ticket sales that the venue selected for the show was reasonably safe and would not subject patrons to an unreasonable risk of serious injury or death.

776. The defendants, Shell Oil Company and Motiva Enterprises, LLC., knew or should have known that, if the venue for the performance did not have adequate fire protection and suppression equipment, that patrons would be subjected to a foreseeable, unreasonable risk of injury or even death.

777. The defendants, Shell Oil Company and Motiva Enterprises, LLC., knew or should have known that members of the public, including the Plaintiff's Decedent, were relying on it to exercise proper care, skill and diligence in the review and selection of a safe venue for concerts for which it sold tickets.

778. The defendants, Shell Oil Company and Motiva Enterprises, LLC., were negligent and careless in the manner in which they engaged in the promotion of the aforesaid

performance, which negligence and carelessness caused the injuries and damages as hereinafter set forth.

779. The defendants, Shell Oil Company and Motiva Enterprises, LLC., through its agents, servants, employees or contractors acting within the course and scope of their employment or agency, owed a legal duty to the Plaintiff and is liable and legally responsible for negligence in causing the death of the Plaintiff's Decedent in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the nightclub;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the nightclub in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the nightclub by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities;

f) Failed to properly and adequately review, inspect and approve The Station as a safe venue for members of the public;

g) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

h) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions;

i) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics; and

j) Attached its name to the event, thereby inducing patrons to attend the event because of the credibility given to the event by use of the name Shell Oil.

780. As a direct and proximate result thereof, the plaintiff, Christopher Scott, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

781. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

782. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

783. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

## CLAIMS AGAINST TOWN OF WEST WARWICK AND FIRE INSPECTOR, DENNIS LAROCQUE

## COUNT ONE HUNDRED NINETEEN
**By Christopher Scott**
**(Negligence)**

784. Paragraphs One (1) through Seven Hundred Eighty-Three (783)are hereby incorporated as if fully set forth herein.

785. The Town of West Warwick and its Fire Inspector, Dennis Larocque, are responsible for the inspection of commercial facilities in the Town of West Warwick and enforcement of the building and fire code laws of the State of Rhode Island.

786. The Town of West Warwick and Fire Inspector, Dennis Larocque, owed a legal duty to the public in general and the patrons of The Station in particular to exercise reasonable care and due diligence by properly inspecting commercial properties in the Town of West Warwick.

787. The Town of West Warwick and Fire Inspector, Dennis Larocque, were negligent and careless in failing to properly inspect the Station and enforce the laws of the State of Rhode Island, which negligence and carelessness proximately caused the injuries and damages as hereinafter set forth.

788. The Town is liable for the negligence of its agents, servants, and employees, and owed a special duty to each Plaintiff.

789. The Town of West Warwick and Fire Inspector, Dennis Larocque, through its agents, servants, and employees were negligent and careless in one or more of the following ways, in that they:

a) Failed to enforce the building code and fire safety laws of the State of Rhode Island;

b) Failed to adequately inspect The Station;

c) Failed to conduct regular inspections of The Station;

d) Failed to discover and take action for the highly flammable and toxic materials existing on the premises of The Station, which materials should have been discovered by a reasonable inspection;

e) Failed to properly train personnel in fire safety laws, regulations and standards;

f) Failed to require sprinkler systems or other fire prevention devices at The Station;

g) Failed to employ adequate employees and/or personnel to adequately enforce the fire safety laws, regulations and standards;

h) Failed to appropriate adequate funds for the enforcement of fire safety laws, regulations and standards;

i) Knew or should have known of the use of pyrotechnics at The Station and failed to take action to prevent the same when it was unsafe to use pyrotechnics under the circumstances;

j) Failed to enforce Section 23-28-18-4 of the Rhode Island General Laws by failing to ensure that The Station, which provided performances to more than seventy-five (75) people, was free from combustible debris; and

k) Failed to require that The Station limit the number of patrons on the premises to a safe number of patrons.

790. As a direct and proximate result thereof, the plaintiff, Christopher Scott, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

791. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

792. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

793. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

794. The Fire Inspector, Dennis Larocque, is entitled to indemnity by the Town of West Warwick, pursuant to Section 45-15-16 of the Rhode Island General Laws.

795. Pursuant to Section 45-15-5 of the Rhode Island General Laws, the Plaintiffs have provided the Town of West Warwick with a valid Notice of Presentment of Claim, and more than forty (40) days have passed since said notice was provided.

## CLAIMS AGAINST STATE OF RHODE ISLAND AND FIRE MARSHAL, IRVING J. OWENS

### COUNT ONE HUNDRED TWENTY

**By Christopher Scott**
**(Negligence)**

796. Paragraphs One (1) through Seven Hundred Ninety-Five (795) are hereby incorporated as if fully set forth herein.

797. The State of Rhode Island and its Fire Marshal, Irving J. Owens, are responsible for the inspection of commercial facilities in the Town of West Warwick and enforcement of the building and fire code laws of the State of Rhode Island.

798. Pursuant to Section 23-28.2-4 of the Rhode Island General Laws, the State of Rhode Island and Fire Marshal, Irving J. Owens, owed a legal duty to the public in general and the patrons of The Station in particular to exercise reasonable care and due diligence by properly inspecting or causing proper inspections commercial properties in the Town of West Warwick, and to enforce and perform the duties required by the Fire Safety Code.

799. The State and Fire Marshal were negligent and careless in failing to properly inspect the Station and enforce the laws of the State of Rhode Island, which negligence and carelessness proximately caused the injuries and damages as hereinafter set forth.

800. The State and Fire Marshal are liable for the negligence of its agents, servants, and employees, and owed a special duty to each Plaintiff.

801. The State and Fire Marshal, through their agents, servants, and employees were negligent and careless in one or more of the following ways, in that they:

a) Failed to enforce the building code and fire safety laws of the State of Rhode Island;

b) Failed to adequately inspect The Station;

c) Failed to conduct regular inspections of The Station;

d) Failed to discover and take action for the highly flammable and toxic materials existing on the premises of The Station, which materials should have been discovered by a reasonable inspection;

e) Failed to properly train personnel in fire safety laws, regulations and standards;

f) Failed to require sprinkler systems or other fire prevention devices at The Station;

g) Failed to employ adequate employees and/or personnel to adequately enforce the fire safety laws, regulations and standards;

h) Failed to appropriate adequate funds for the enforcement of fire safety laws, regulations and standards;

i) Knew or should have known of the use of pyrotechnics at The Station and failed to take action to prevent the same when it was unsafe to use pyrotechnics under the circumstances;

j) Failed to enforce Section 23-28-18-4 of the Rhode Island General Laws by failing to ensure that The Station, which provided performances to more than seventy-five (75) people, was free from combustible debris; and

k) Failed to require that The Station limit the number of patrons on the premises to a safe number of patrons.

802. As a direct and proximate result thereof, the plaintiff, Christopher Scott, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

803. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

804. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

805. As a further direct and proximate result thereof, the plaintiff, Christopher Scott, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

806. The Fire Marshal, Irving J. Owens, is entitled to indemnity by the Town of West Warwick pursuant to Section 23-28.2-17 of the Rhode Island General Laws.

807. Pursuant to Section 45-15-5 of the Rhode Island General Laws, the Plaintiffs have provided the Town of West Warwick with a valid Notice of Presentment of Claim, and more than forty (40) days have passed since said notice was provided.

## CLAIMS AGAINST AMERICAN FOAM CORPORATION

## COUNT ONE HUNDRED TWENTY-ONE
**By Julianna Giaven**
**(Negligence)**

808. Paragraphs One (1) through Eight Hundred Seven (807) are hereby incorporated as if fully set forth herein.

809. The defendant, American Foam Corporation, and/or its agents, servants, or employees are liable and legally responsible for negligence which was a proximate cause of the injuries and damages resulting from sale and use of the foam insulation product in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

810. As a direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered serious injuries to her body and person causing him to suffer severe mental and physical pain and distress.

811. She has suffered physical pain and emotional anguish and most likely will suffer the same in the future. Her injuries are permanent in nature.

812. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered severe emotional trauma due to the fear that she was going to be burned and/or crushed to death. She has suffered from nightmares, flashbacks, and night sweats.

813. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

**COUNT ONE HUNDRED TWENTY-TWO**
**By Julianna Giaven**
**(Strict Products Liability)**

814. Paragraphs One (1) through Eight Hundred Thirteen (813) are hereby incorporated as if fully set forth herein.

815. The defendant American Foam Corporation, and/or its agents, servants, or employees, are strictly liable and legally responsible for the injuries and damages resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

816. As a direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered serious injuries to her body and person causing him to suffer severe mental and physical pain and distress.

817. She has suffered physical pain and emotional anguish and most likely will suffer the same in the future. Her injuries are permanent in nature.

818. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered severe emotional trauma due to the fear that she was going to be burned and/or crushed to death. She has suffered from nightmares, flashbacks, and night sweats.

819. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

## CLAIMS AGAINST FOAMEX INTERNATIONAL

## COUNT ONE HUNDRED TWENTY-THREE
**By Julianna Giaven**
**(Negligence)**

820. Paragraphs One(1) through Eight Hundred Nineteen (819) are hereby incorporated as if fully set forth herein.

821. The defendant Foamex International, and/or its agents, servants, or employees, owed a legal duty to the Plaintiffs and are liable and legally responsible for negligence which was a

proximate cause of the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

822. As a direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

823. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

824. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, lost time from her employment, thereby suffering an economic loss, all to her financial loss.

825. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

**COUNT ONE HUNDRED TWENTY-FOUR**
**by the Julianna Giaven**
**(Strict Products Liability)**

826. Paragraphs One (1) through Eight Hundred Twenty-Five (825) are hereby incorporated as if fully set forth herein.

827. The aforesaid product was not altered or modified in any way by the users or any third party from the condition in which it was manufactured and sold.

828. At all times relevant herein, said substance was expected to and did reach the users without substantial change in condition in which it was sold or manufactured.

829. The defendant Foamex International is a product seller.

830. The defendant Foamex International, and/or its agents, servants, or employees, are strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

831. As a direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

832. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

833. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, lost time from her employment, thereby suffering an economic loss, all to her financial loss.

834. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

## CLAIMS AGAINST BARRY H. WARNER

## COUNT ONE HUNDRED TWENTY-FIVE

**By Julianna Giaven**
**(Negligence)**

835. Paragraphs One (1) through Eight Hundred Thirty-Four (834) are hereby incorporated as if fully set forth herein.

836. The defendant, Barry H. Warner, is liable and legally responsible for negligence which was a proximate cause of the injuries and damages resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) He placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) He represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) He failed to provide proper and appropriate warnings to product users;

d) He knew or should have known of the dangerous propensities of said foam yet sold it with reckless disregard for the safety of the public, including the plaintiff's decedent;

e) He breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose;

f) He breached its express warranty that said foam was safe and effective for use;

g) He provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

h) He failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

i) He failed to provide sound-proofing material that was fire resistant when he knew the intended use of the product;

j) He failed to warn that pyrotechnics could not be safely used in spaces where the foam insulation was installed; and

k) He failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

837. As a direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

838. She has suffered physical pain and emotional anguish and most likely will suffer the same in the future. Her injuries are permanent in nature.

839. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered severe emotional trauma due to the fear that she was going to be burned and/or crushed to death. She has suffered from nightmares, flashbacks, and night sweats.

840. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

**COUNT ONE HUNDRED TWENTY-SIX**
**By Julianna Giaven**
**(Strict Products Liability)**

841. Paragraphs One (1) through Eight Hundred Forty (840) are hereby incorporated as if fully set forth herein.

842. At all times relevant hereto, the defendant Barry H. Warner was employed by American Foam Corporation and was acting in the course and scope of his employment.

843. Prior to February 20, 2003, the defendant Barry H. Warner sold the foam material to the defendants Jeffery Derderian, Michael Derderian, and/or DERCO, d/b/a/ The Station, to be used as sound-proofing material at the former Station night-club and represented to

said defendants that the foam could be safely and appropriately used as sound-proofing material when he knew or should have known that in fact the foam was highly flammable and toxic and could not be safely used for sound-proofing in a night-club where smoking and use of pyrotechnics was permitted.

844. The defendant Barry H. Warner is strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) He placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) He represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) He failed to provide proper and appropriate warnings to product users;

d) He knew or should have known of the dangerous propensities of said foam yet sold it with reckless disregard for the safety of the public, including the plaintiff's decedent;

e) He breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose;

f) He breached its express warranty that said foam was safe and effective for use;

g) He provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

h) He failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

i) He failed to provide sound-proofing material that was fire resistant when he knew the intended use of the product;

j) He failed to warn that pyrotechnics could not be safely used in spaces where the foam insulation was installed; and

k) He failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

845. As a direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

846. She has suffered physical pain and emotional anguish and most likely will suffer the same in the future. Her injuries are permanent in nature.

847. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered severe emotional trauma due to the fear that she was going to be burned and/or crushed to death. She has suffered from nightmares, flashbacks, and night sweats.

848. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

## CLAIMS AGAINST JEFFREY DERDERIAN, MICHAEL DERDERIAN AND DERCO, LLC, d/b/a THE STATION

## COUNT ONE HUNDRED TWENTY-SEVEN

**By Julianna Giaven**

**(Negligence)**

849. Paragraphs One (1) through Eight Hundred Forty-Eight (848) are hereby incorporated as if fully set forth herein.

850. The defendants, Jeffrey Derderian, Michael Derderian, and/or DERCO, LLC, d/b/a The Station and/or their agents, servants, or employees, are liable and legally responsible for

negligence in causing the fire at The Station night-club and the resulting injuries of Julianna Giaven in one or more of the following respects, in that they:

a) Failed to properly manage, control, supervise and/or inspect The Station night-club prior to and during the Great White concert;

b) Installed highly flammable and toxic foam material around the stage of the night-club and failed to ensure that the sound-proofing material was fire resistant, in violation of R.I. Gen. Laws Section 23.28.6-15;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to install, maintain, or inspect proper emergency lighting and exit signs that were operable in the event of fire or power outage, in violation of R.I. Gen. Laws Section 23-28.6-13;

f) Failed to adequately inspect The Station for safety hazards;

g) Failed to install sprinklers or other fire prevention apparatus at The Station;

h) Failed to provide adequate exits and failed to inform patrons of The Station of the location of fire exits or require personnel present to do so;

i) Allowed unsafe numbers of persons on the premises during the Great White performance;

j) Allowed The Station to become overcrowded with patrons during performances;

k) Caused or allowed the parking of vehicles in an area around The Station structure so as to impede safe egress in the event of a fire;

l) Caused or allowed uneven floor surfaces in The Station which constituted a tripping hazard;

m) Knew or should have known of the dangerous conditions at The Station and failed to remedy those conditions; and

n) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

851. As a direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered serious injuries to her body and person causing him to suffer severe mental and physical pain and distress.

852. She has suffered physical pain and emotional anguish and most likely will suffer the same in the future. Her injuries are permanent in nature.

853. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered severe emotional trauma due to the fear that she was going to be burned and/or crushed to death. She has suffered from nightmares, flashbacks, and night sweats.

854. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

## CLAIMS AGAINST MANIC MUSIC MANAGEMENT, INC.

## COUNT ONE HUNDRED TWENTY-EIGHT
**By Julianna Giaven**
**(Negligence)**

855. Paragraphs One (1) through Eight Hundred Fifty-Four (854) are hereby incorporated as if fully set forth herein.

856. The defendant, Manic Music Management, Inc. and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries of Juliana Giavens in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3; and

e) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

857. As a direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered serious injuries to her body and person causing him to suffer severe mental and physical pain and distress.

858. She has suffered physical pain and emotional anguish and most likely will suffer the same in the future. Her injuries are permanent in nature.

859. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered severe emotional trauma due to the fear that she was going to be burned and/or crushed to death. She has suffered from nightmares, flashbacks, and night sweats.

860. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

## CLAIMS AGAINST JACK RUSSELL, MARK KENDALL, DAVID FILICE ERIC POWERS, d/b/a GREAT WHITE

## COUNT ONE HUNDRED TWENTY-NINE
**By Julianna Giaven**

**(Negligence)**

861. Paragraphs One (1) through Eight Hundred Sixty (860) are hereby incorporated as if fully set forth herein.

862. The defendants, Jack Russell, Mark Kendall, David Filice, Eric Powers, and/or their agents, servants or employees are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and losses of Julianna Giaven in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3; and

e) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

863. As a direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered serious injuries to her body and person causing him to suffer severe mental and physical pain and distress.

864. She has suffered physical pain and emotional anguish and most likely will suffer the same in the future. Her injuries are permanent in nature.

865. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered severe emotional trauma due to the fear that she was going to be burned and/or crushed to death. She has suffered from nightmares, flashbacks, and night sweats.

866. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

## CLAIMS AGAINST DANIEL BICHELE

## COUNT ONE HUNDRED THIRTY
**By Julianna Giaven**
**(Negligence)**

867. Paragraphs One (1) through Eight Hundred Sixty-Six (866) are hereby incorporated as if fully set forth herein.

868. The defendant, Daniel Bichele, and/or his agents, servants, or employees, is liable or legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and losses of Julianna Giaven in one or more of the respects, in that he or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Negligently activated dangerous pyrotechnic devices in an overcrowded night-club where it could easily ignite toxic flammable sound-proofing insulation on the walls and ceiling; and

f) Failed to protect the plaintiff and other members of the public from the foreseeable risk of serious injury or death at The Station.

869. As a direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered serious injuries to her body and person causing him to suffer severe mental and physical pain and distress.

870. She has suffered physical pain and emotional anguish and most likely will suffer the same in the future. Her injuries are permanent in nature.

871. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered severe emotional trauma due to the fear that she was going to be burned and/or crushed to death. She has suffered from nightmares, flashbacks, and night sweats.

872. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

**CLAIMS AGAINST PAUL WOOLNOUGH AND NIGHT RECORDS, INC.**

**COUNT ONE HUNDRED THIRTY-ONE**
**By Julianna Giaven**
**(Negligence)**

873. Paragraphs One (1) through Eight Hundred Seventy-Two (872) are hereby incorporated as if fully set forth herein.

874. The defendants, Paul Woolnough and/or Knight Records, Inc. and/or his or their agents, servants, or employees, are liable or legally responsible for negligence in causing the fire at

The Station night-club and the resulting injuries and losses of Julianna Giaven in one or more of the respects, in that he or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Negligently activated dangerous pyrotechnic devices in an overcrowded night-club where it could easily ignite toxic flammable sound-proofing insulation on the walls and ceiling; and

f) Failed to protect the plaintiff and other members of the public from the foreseeable risk of serious injury or death at The Station.

875. As a direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered serious injuries to her body and person causing him to suffer severe mental and physical pain and distress.

876. She has suffered physical pain and emotional anguish and most likely will suffer the same in the future. Her injuries are permanent in nature.

877. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered severe emotional trauma due to the fear that she was going to be burned and/or crushed to death. She has suffered from nightmares, flashbacks, and night sweats.

878. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

**CLAIMS AGAINST ANHEUSER BUSCH, INC.**

**COUNT ONE HUNDRED THIRTY-TWO**
**By Julianna Giaven**
**(Negligence)**

879. Paragraphs One (1) through Eight Hundred Seventy-Eight (878) are hereby incorporated as if fully set forth herein.

880. The defendant, Anheuser-Busch, Inc. and/or its agents, servants, or employees, is liable or legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and losses of Julianna Giaven in one or more of the respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities; and

f) Failed to protect the plaintiff and other members of the public from the foreseeable risk of serious injury or death at The Station.

881. As a direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

882. She has suffered physical pain and emotional anguish and most likely will suffer the same in the future. Her injuries are permanent in nature.

883. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered severe emotional trauma due to the fear that she was going to be burned and/or crushed to death. She has suffered from nightmares, flashbacks, and night sweats.

884. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

## CLAIMS AGAINST MCLAUGHLIN & MORAN, INC.

## COUNT ONE HUNDRED THIRTY-THREE

**By Julianna Giaven**
**(Negligence)**

885. Paragraphs One (1) through Eight Hundred Eighty-Four (884) are hereby incorporated as if fully set forth herein.

886. The defendant, McLaughlin & Moran, Inc. and/or its agents, servants, or employees, is liable or legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and losses of Julianna Giaven in one or more of the respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities; and

f) Failed to protect the plaintiff and other members of the public from the foreseeable risk of serious injury or death at The Station.

887. As a direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered serious injuries to her body and person causing him to suffer severe mental and physical pain and distress.

888. She has suffered physical pain and emotional anguish and most likely will suffer the same in the future. Her injuries are permanent in nature.

889. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered severe emotional trauma due to the fear that she was going to be burned and/or crushed to death. She has suffered from nightmares, flashbacks, and night sweats.

890. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

## CLAIMS AGAINST CLEAR CHANNEL COMMUNICATIONS, INC. d/b/a WHJY-FM

## COUNT ONE HUNDRED THIRTY-FOUR
**By Julianna Giaven**
**(Negligence)**

891. Paragraphs One (1) through Eight Hundred Ninety (890) are hereby incorporated as if fully set forth herein.

892. The defendant, Clear Channel Communications, Inc., d/b/a WHJY-FM and/or their agents, servants, or employees, are liable or legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and losses of Lisa Johnson in one or more of the respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities; and

f) Failed to protect the plaintiff and other members of the public from the foreseeable risk of serious injury or death at The Station.

893. As a direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

894. She has suffered physical pain and emotional anguish and most likely will suffer the same in the future. Her injuries are permanent in nature.

895. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered severe emotional trauma due to the fear that she was going to be burned and/or crushed to death. She has suffered from nightmares, flashbacks, and night sweats.

896. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

**CLAIMS AGAINST LUNA TECH, INC.**
**AND LUNA TECH PYROTECHNIC, GMBH**

**COUNT ONE HUNDRED THIRTY-FIVE**
**By Julianna Giaven**
**(Negligence)**

897. Paragraphs One (1) through Eight Hundred Ninety-Six (896) are hereby incorporated as if fully set forth herein.

898. The defendants, Luna Tech, Inc. and Luna Tech Pyrotechnic, GMBH and/or their agents, servants, or employees, are liable or legally responsible for negligence which was the proximate cause of the injuries, damages and losses of the plaintiff, Julianna Giaven, resulting from sale and use of the pyrotechnic product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the devices were highly flammable and could not be safely used by bands in night-clubs;

b) They sold said devices to bands and represented that said devices were safe for their intended uses;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the devices; and

e) They failed to warn that pyrotechnics could not be safely used in night-clubs or similar spaces where flammable foam insulation was installed.

899. As a direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

900. She has suffered physical pain and emotional anguish and most likely will suffer the same in the future. Her injuries are permanent in nature.

901. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered severe emotional trauma due to the fear that she was going to be burned and/or crushed to death. She has suffered from nightmares, flashbacks, and night sweats and she is undergoing counseling.

902. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

**COUNT ONE HUNDRED THIRTY-SIX**
**by Julianna Giaven**
**(Strict Products Liability)**

903. Paragraphs One (1) through Nine Hundred Two (902) are hereby incorporated as if fully set forth herein.

904. The defendants, Luna Tech, Inc. and Luna Tech Pyrotechnic, GMBH and/or their agents, servants, or employees, are strictly liable or legally responsible for the injuries, damages and losses of the plaintiff, Julianna Giaven, resulting from sale and use of the pyrotechnics product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the devices were highly flammable and could not be safely used by bands in night-clubs;

b) They sold said devices to bands and represented that said devices were safe for their intended uses;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the devices; and

e) They failed to warn that pyrotechnics could not be safely used in night-clubs or similar spaces where flammable foam insulation was installed.

905. As a direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

906. She has suffered physical pain and emotional anguish and most likely will suffer the same in the future. Her injuries are permanent in nature.

907. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered severe emotional trauma due to the fear that she was going to be burned and/or crushed to death. She has suffered from nightmares, flashbacks, and night sweats.

908. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

**CLAIMS AGAINST JOINT VENTURE LIABILITY AS TO JEFFREY DERDERIAN, MICHAEL DERDERIAN, AND DERCO LLC D/B/A THE STATION, MANIC MUSIC MANAGEMENT, INC., JACK RUSSELL, MARK KENDALL, DAVID FILICE, ERIC POWERS, DANIEL BICHIELE, PAUL WOOLNOUGH, KNIGHT RECORDS, INC., ANHEUSER-BUSCH, INC., MCLAUGHLIN & MORAN, INC., CLEAR CHANNEL COMMUNICATIONS, INC., D/B/A WHJY-FM AND MOTIVA ENTERPRISES, LLC. AND SHELL OIL COMPANY AND THE TOWN OF WEST WARWICK AND THE STATE OF RHODE ISLAND**

**COUNT ONE HUNDRED THIRTY-SEVEN**
**by Julianna Giaven**
**(Negligence)**

909. Paragraphs One (1) through Nine Hundred Eight (908) are hereby incorporated as if fully set forth herein.

910. Prior to the Great White concert that occurred on February 20, 2003, the defendants Jeffrey Derderian, Michael Derderian, and DERCO LLC d/b/a The Station, Manic Music Management, Inc., Jack Russell, Mark Kendall, David Filice, Eric Powers, Daniel Bichiele, Paul Woolnough, Knight Records, Inc., Anheuser-Busch, Inc., McLaughlin & Moran, Inc., Clear Channel Communications, Inc., d/b/a WHJY-FM, Motiva Enterprises, LLC and Shell Oil Company and The Town of West Warwick and State of Rhode Island., entered into an express or implied agreement for the common purpose and design of planning, endorsing, sponsoring, promoting, and/or advertising the concert.

911. The defendants joined and participated in this joint venture for the purpose of pursuing their common business interests and for economic gain.

912. Each of the participating defendants had a right to voice concerns regarding the event and each controlled certain aspects of the planning, endorsement, sponsorship, promotion, and/or advertising relating to the Great White concert, including but not limited to the selection and inspection of the venue, The Station.

913. The defendants, and/or their agents, servants, employees and/or contractors acting within the course and scope of their employment or agency, owed a legal duty to the Plaintiffs and are liable and legally responsible for the injuries, damages, and deaths resulting from negligent, careless and/or reckless acts or omissions in planning, endorsing, sponsoring, promoting and/or advertising the Great White concert that occurred on February 20, 2003, in one or more of the following respects:

a) Failed to properly manage, control, supervise and/or inspect The Station night-club prior to and during the Great White concert;

b) Installed or permitted to be installed highly flammable and toxic foam material around the stage of the night-club and failed to ensure that the sound-proofing material was fire resistant, in violation of R.I. Gen. Laws Section 23.28.6-15;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to inspect proper emergency lighting and exit signs that were operable in the event of fire or power outage, in violation of R.I. Gen. Laws Section 23-28.6-13;

f) Failed to adequately inspect The Station for safety hazards, or negligently performed same;

g) Failed to inspect for sprinklers or other fire prevention equipment and apparatus at The Station;

h) Failed to provide adequate exits and failed to inform patrons of The Station of the location of fire exits or require personnel present to do so;

i) Allowed unsafe numbers of persons on the premises during the Great White performance;

j) Allowed The Station to become overcrowded with patrons during performances;

k) Caused or allowed the parking of vehicles in an area around The Station structure so as to impede safe egress in the event of a fire;

l) Caused or allowed uneven floor surfaces in The Station which constituted a tripping hazard;

m) Knew or should have known of the dangerous conditions at The Station and failed to remedy those conditions;

n) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station; and

o) Were otherwise negligent in their selection and/or inspection of the venue for the Great White concert, The Station.

914. As a direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

915. She has suffered physical pain and emotional anguish and most likely will suffer the same in the future. Her injuries are permanent in nature.

916. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered severe emotional trauma due to the fear that she was going to be burned and/or crushed to death. She has suffered from nightmares, flashbacks, and night sweats.

917. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

## CLAIMS AGAINST SHELL OIL CORPORATION AND MOTIVA ENTERPRISES, LLC

### COUNT ONE HUNDRED THIRTY-EIGHT
**By Julianna Giaven**
**(Negligence)**

918. Paragraphs One (1) through Nine Hundred Seventeen (917) are hereby incorporated as if fully set forth herein.

919. Upon information and belief, the defendant, Shell Oil Company, d/b/a Motiva Enterprises, LLC, was the owner/lessor of certain property located at 7380 Post Road, North Kingstown, Rhode Island.

920. Upon information and belief, defendant DERCO LLC was the manager and lessee of the aforesaid property owned by, the defendant, Shell Oil Company, d/b/a Motiva Enterprises, LLC.

921. Upon information and belief, the defendant Shell Oil Company dominated, controlled and/or managed the practices, policies and finances of Motiva, LLC and the gas station operation at the 7380 Post Road facility, including but not limited to exercising joint control over the management, inventory, marketing, promotions, and pricing policies.

922. The defendants Shell Oil Company and Motiva Enterprises, LLC owed a legal duty to patrons of The Station because they engaged in the promotion of the Great White performance at The Station by distributing certain tickets in return for certain purchases

of its merchandise, which promotion was expressly or impliedly approved by Shell Oil Company and its subsidiary Motiva Enterprises, LLC in negligent disregard for the safety of the anticipated patrons at the performance.

923. The defendants Shell Oil Company and Motiva Enterprises, LLC endorsed, sponsored, promoted, and/or advertised the Great White concert and stood to profit monetarily these activities and marketing efforts.

924. Upon information and belief, the defendants Shell Oil Company and Motiva Enterprises, LLC expressly and/or impliedly represented and warranted to the public through its marketing, promotional activities and ticket sales that the venue selected for the show was reasonably safe and would not subject patrons to an unreasonable risk of serious injury or death.

925. The defendants, Shell Oil Company and Motiva Enterprises, LLC, knew or should have known that, if the venue for the performance did not have adequate fire protection and suppression equipment, that patrons would be subjected to a foreseeable, unreasonable risk of injury or even death.

926. The defendants, Shell Oil Company and Motiva Enterprises, LLC, knew or should have known that members of the public, including the Plaintiff, Julianna Giaven, who was relying on it to exercise proper care, skill and diligence in the review and selection of a safe venue for concerts for which it sold tickets.

927. The defendants Shell Oil Company and Motiva Enterprises, LLC were negligent and careless in the manner in which they engaged in the promotion of the aforesaid

performance, which negligence and carelessness caused the injuries and damages as hereinafter set forth.

928. The defendants Shell Oil Company and Motiva Enterprises, LLC through its agents, servants, employees or contractors acting within the course and scope of their employment or agency, owed a legal duty to the Plaintiff and is liable and legally responsible for negligence in causing injury to the Plaintiff in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the nightclub;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the nightclub in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the nightclub by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities;

f) Failed to properly and adequately review, inspect and approve The Station as a safe venue for members of the public;

g) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

h) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions;

i) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics; and

j) Attached its name to the event, thereby inducing patrons to attend the event because of the credibility given to the event by use of the name Shell Oil.

929. As a direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

930. She has suffered physical pain and emotional anguish and most likely will suffer the same in the future. Her injuries are permanent in nature.

931. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered severe emotional trauma due to the fear that she was going to be burned and/or crushed to death. She has suffered from nightmares, flashbacks, and night sweats.

932. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

## CLAIMS AGAINST TOWN OF WEST WARWICK AND FIRE INSPECTOR, DENNIS LAROCQUE

## COUNT ONE HUNDRED THIRTY-NINE
**By Julianna Giaven**
**(Negligence)**

933. Paragraphs One (1) through Nine Hundred Thirty-Two (932) are hereby incorporated as if fully set forth herein.

934. The Town of West Warwick and its Fire Inspector, Dennis Larocque, are responsible for the inspection of commercial facilities in the Town of West Warwick and enforcement of the building and fire code laws of the State of Rhode Island.

935. The Town of West Warwick and Fire Inspector, Dennis Larocque, owed a legal duty to the public in general and the patrons of The Station in particular to exercise reasonable care and due diligence by properly inspecting commercial properties in the Town of West Warwick.

936. The Town of West Warwick and Fire Inspector, Dennis Larocque, were negligent and careless in failing to properly inspect the Station and enforce the laws of the State of Rhode Island, which negligence and carelessness proximately caused the injuries and damages as hereinafter set forth.

937. The Town is liable for the negligence of its agents, servants, and employees, and owed a special duty to each Plaintiff.

938. The Town of West Warwick and Fire Inspector, Dennis Larocque, through its agents, servants, and employees were negligent and careless in one or more of the following ways, in that they:

a) Failed to enforce the building code and fire safety laws of the State of Rhode Island;

b) Failed to adequately inspect The Station;

c) Failed to conduct regular inspections of The Station;

d) Failed to discover and take action for the highly flammable and toxic materials existing on the premises of The Station, which materials should have been discovered by a reasonable inspection;

e) Failed to properly train personnel in fire safety laws, regulations and standards;

f) Failed to require sprinkler systems or other fire prevention devices at The Station;

g) Failed to employ adequate employees and/or personnel to adequately enforce the fire safety laws, regulations and standards;

h) Failed to appropriate adequate funds for the enforcement of fire safety laws, regulations and standards;

i) Knew or should have known of the use of pyrotechnics at The Station and failed to take action to prevent the same when it was unsafe to use pyrotechnics under the circumstances;

j) Failed to enforce Section 23-28-18-4 of the Rhode Island General Laws by failing to ensure that The Station, which provided performances to more than seventy-five (75) people, was free from combustible debris; and

k) Failed to require that The Station limit the number of patrons on the premises to a safe number of patrons.

939. As a direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

940. She has suffered physical pain and emotional anguish and most likely will suffer the same in the future. Her injuries are permanent in nature.

941. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered severe emotional trauma due to the fear that she was going to be burned and/or crushed to death. She has suffered from nightmares, flashbacks, and night sweats.

942. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

943. The Fire Inspector, Dennis Larocque, is entitled to indemnity by the Town of West Warwick, pursuant to Section 45-15-16 of the Rhode Island General Laws.

944. Pursuant to Section 45-15-5 of the Rhode Island General Laws, the Plaintiffs have provided the Town of West Warwick with a valid Notice of Presentment of Claim, and more than forty (40) days have passed since said notice was provided.

## CLAIMS AGAINST STATE OF RHODE ISLAND AND FIRE MARSHAL, IRVING J. OWENS

### COUNT ONE HUNDRED FORTY
**By Julianna Giaven**
**(Negligence)**

945. Paragraphs One (1) through Nine Hundred Forty-Four (944) are hereby incorporated as if fully set forth herein.

946. The State of Rhode Island and its Fire Marshal, Irving J. Owens, are responsible for the inspection of commercial facilities in the Town of West Warwick and enforcement of the building and fire code laws of the State of Rhode Island.

947. Pursuant to Section 23-28.2-4 of the Rhode Island General Laws, the State of Rhode Island and Fire Marshal, Irving J. Owens, owed a legal duty to the public in general and the patrons of The Station in particular to exercise reasonable care and due diligence by properly inspecting or causing proper inspections commercial properties in the Town of West Warwick, and to enforce and perform the duties required by the Fire Safety Code.

948. The State and Fire Marshal were negligent and careless in failing to properly inspect the Station and enforce the laws of the State of Rhode Island, which negligence and carelessness proximately caused the injuries and damages as hereinafter set forth.

949. The State and Fire Marshal are liable for the negligence of its agents, servants, and employees, and owed a special duty to each Plaintiff.

950. The State and Fire Marshal, through their agents, servants, and employees were negligent and careless in one or more of the following ways, in that they:

a) Failed to enforce the building code and fire safety laws of the State of Rhode Island;

b) Failed to adequately inspect The Station;

c) Failed to conduct regular inspections of The Station;

d) Failed to discover and take action for the highly flammable and toxic materials existing on the premises of The Station, which materials should have been discovered by a reasonable inspection;

e) Failed to properly train personnel in fire safety laws, regulations and standards;

f) Failed to require sprinkler systems or other fire prevention devices at The Station;

g) Failed to employ adequate employees and/or personnel to adequately enforce the fire safety laws, regulations and standards;

h) Failed to appropriate adequate funds for the enforcement of fire safety laws, regulations and standards;

i) Knew or should have known of the use of pyrotechnics at The Station and failed to take action to prevent the same when it was unsafe to use pyrotechnics under the circumstances;

j) Failed to enforce Section 23-28-18-4 of the Rhode Island General Laws by failing to ensure that The Station, which provided performances to more than seventy-five (75) people, was free from combustible debris; and

k) Failed to require that The Station limit the number of patrons on the premises to a safe number of patrons.

951. As a direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered serious injuries to her body and person causing him to suffer severe mental and physical pain and distress.

952. She has suffered physical pain and emotional anguish and most likely will suffer the same in the future. Her injuries are permanent in nature.

953. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, suffered severe emotional trauma due to the fear that she was going to be burned and/or crushed to death. She has suffered from nightmares, flashbacks, and night sweats.

954. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

955. The Fire Marshal, Irving J. Owens, is entitled to indemnity by the Town of West Warwick pursuant to Section 23-28.2-17 of the Rhode Island General Laws.

956. Pursuant to Section 45-15-5 of the Rhode Island General Laws, the Plaintiffs have provided the Town of West Warwick with a valid Notice of Presentment of Claim, and more than forty (40) days have passed since said notice was provided.

## CLAIMS AGAINST AMERICAN FOAM CORPORATION

## COUNT ONE HUNDRED FORTY-ONE
**By Eric Malardo**
**(Negligence)**

957. Paragraphs One (1) through Nine Hundred Fifty-Six (956) are hereby incorporated as if fully set forth herein.

958. The defendant American Foam Corporation, and/or its agents, servants, or employees, owed a legal duty to the Plaintiff and are liable and legally responsible for negligence which was a proximate cause of the injuries, and damages resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

959. As a direct and proximate result thereof, the plaintiff, Eric Malardo, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

960. As a further direct and proximate result thereof, the plaintiff, Eric Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

961. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, lost time from her employment, thereby suffering an economic loss in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

962. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

963. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT ONE HUNDRED FORTY-TWO**
**by Eric Malardo**
**(Strict Products Liability)**

964. Paragraphs One (1) through Nine Hundred Sixty-Three (963) are hereby incorporated as if fully set forth herein.

965. The aforesaid product was not altered or modified in any way by the users or any third party from the condition in which it was manufactured and sold.

966. At all times relevant herein, said substance was expected to and did reach the users without substantial change in condition in which it was sold or manufactured.

967. The defendant American Foam Corporation is a product seller.

968. The defendant American Foam Corporation, and/or its agents, servants, or employees, are strictly liable and legally responsible for the injuries and damages resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

969. As a direct and proximate result thereof, the plaintiff, Eric Malardo, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

970. As a further direct and proximate result thereof, the plaintiff, Eric Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

971. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

972. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

973. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**CLAIMS AGAINST FOAMEX INTERNATIONAL**

**COUNT ONE HUNDRED FORTY-THREE**
**By Eric Malardo**
**(Negligence)**

974. Paragraphs One (1) through Nine Hundred Seventy-Three (973) are hereby incorporated as if fully set forth herein.

975. The defendant Foamex International, and/or its agents, servants, or employees, owed a legal duty to the Plaintiffs and are liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

976. As a direct and proximate result thereof, the plaintiff, Eric Malardo, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

977. As a further direct and proximate result thereof, the plaintiff, Eric Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

978. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, lost time from her employment, thereby suffering an economic loss, all to her financial loss.

979. As a further direct and proximate result thereof, the plaintiff, Julianna Giaven, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

**COUNT ONE HUNDRED FORTY-FOUR**
**by the Eric Malardo**
**(Strict Products Liability)**

980. Paragraphs One (1) through Nine Hundred Seventy-Nine (979) are hereby incorporated as if fully set forth herein.

981. The aforesaid product was not altered or modified in any way by the users or any third party from the condition in which it was manufactured and sold.

982. At all times relevant herein, said substance was expected to and did reach the users without substantial change in condition in which it was sold or manufactured.

983. The defendant Foamex International is a product seller.

984. The defendant Foamex International, and/or its agents, servants, or employees, are strictly liable and legally responsible for the injuries, damages, and deaths resulting from

sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

985. As a direct and proximate result thereof, the plaintiff, Eric Malardo, suffered serious injuries to his body and person causing her to suffer severe mental and physical pain and distress.

986. As a further direct and proximate result thereof, the plaintiff, Eric Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

987. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

988. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

## CLAIMS AGAINST BARRY H. WARNER

### COUNT ONE HUNDRED FORTY-FIVE
**By Eric Malardo**
**(Negligence)**

989. Paragraphs One (1) through Nine Hundred Eighty-Eight (988) are hereby incorporated as if fully set forth herein.

990. At all times relevant hereto, the defendant Barry H. Warner was employed by American Foam Corporation and was acting in the course and scope of his employment.

991. Prior to February 20, 2003, the defendant Barry H. Warner sold the foam material to the defendants Jeffery Derderian, Michael Derderian, and/or DERCO, LLC, d/b/a The Station to be used as sound-proofing material at the former Station night-club and represented to said defendants that the foam could be safely and appropriately used as sound-proofing material when he knew or should have known that in fact the foam was highly flammable and toxic and could not be safely used for sound-proofing in a night-club where smoking and use of pyrotechnics was permitted.

992. The defendant Barry H. Warner is liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) He placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) He represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) He failed to provide proper and appropriate warnings to product users;

d) He knew or should have known of the dangerous propensities of said foam yet sold it with reckless disregard for the safety of the public, including the plaintiff;

e) He breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose;

f) He breached its express warranty that said foam was safe and effective for use;

g) He provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

h) He failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

i) He failed to provide sound-proofing material that was fire resistant when he knew the intended use of the product;

j) He failed to warn that pyrotechnics could not be safely used in spaces where the foam insulation was installed; and

k) He failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

993. As a direct and proximate result thereof, the plaintiff, Eric Malardo, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

994. As a further direct and proximate result thereof, the plaintiff, Eric Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

995. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

996. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

997. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWO HUNDRED FORTY-SIX**
**By Eric Malardo**
**(Strict Products Liability)**

998. Paragraphs One (1) through Nine Hundred Ninety-Seven (997) are hereby incorporated as if fully set forth herein.

999. At all times relevant hereto, the defendant Barry H. Warner was employed by American Foam Corporation and was acting in the course and scope of his employment.

1000. Prior to February 20, 2003, the defendant Barry H. Warner sold the foam material to the defendants Jeffery Derderian, Michael Derderian, and/or DERCO, d/b/a/ The Station, to be used as sound-proofing material at the former Station night-club and represented to said defendants that the foam could be safely and appropriately used as sound-proofing material when he knew or should have known that in fact the foam was highly flammable and toxic and could not be safely used for sound-proofing in a night-club where smoking and use of pyrotechnics was permitted.

1001. The defendant Barry H. Warner is strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) He placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) He represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) He failed to provide proper and appropriate warnings to product users;

d) He knew or should have known of the dangerous propensities of said foam yet sold it with reckless disregard for the safety of the public, including the plaintiff's decedent;

e) He breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose;

f) He breached its express warranty that said foam was safe and effective for use;

g) He provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

h) He failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

i) He failed to provide sound-proofing material that was fire resistant when he knew the intended use of the product;

j) He failed to warn that pyrotechnics could not be safely used in spaces where the foam insulation was installed; and

k) He failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

1002. As a direct and proximate result thereof, the plaintiff, Eric Malardo, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

1003. As a further direct and proximate result thereof, the plaintiff, Eric Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

1004. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost

wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

1005. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1006. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the extent are not yet known.

## CLAIMS AGAINST JEFFERY DERDERIAN, MICHAEL DERDERIAN AND DERCO, LLC, d/b/a THE STATION

## COUNT TWO HUNDRED FORTY-SEVEN
**By Eric Malardo**
**(Negligence)**

1007. Paragraphs One (1) through One Thousand Six (1006) are hereby incorporated as if fully set forth herein.

1008. The defendants Jeffrey Derderian, Michael Derderian, and/or DERCO, LLC, d/b/a The Station and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to Eric Malardo in one or more of the following respects, in that they:

a) Failed to properly manage, control, supervise and/or inspect The Station night-club prior to and during the Great White concert;

b) Installed highly flammable and toxic foam material around the stage of the night-club and failed to ensure that the sound-proofing material was fire resistant, in violation of R.I. Gen. Laws Section 23.28.6-15;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to install, maintain, or inspect proper emergency lighting and exit signs that were operable in the event of fire or power outage, in violation of R.I. Gen. Laws Section 23-28.6-13;

f) Failed to adequately inspect The Station for safety hazards;

g) Failed to install sprinklers or other fire prevention apparatus at The Station;

h) Failed to provide adequate exits and failed to inform patrons of The Station of the location of fire exits or require personnel present to do so;

i) Allowed unsafe numbers of persons on the premises during the Great White performance;

j) Allowed The Station to become overcrowded with patrons during performances;

k) Caused or allowed the parking of vehicles in an area around The Station structure so as to impede safe egress in the event of a fire;

l) Caused or allowed uneven floor surfaces in The Station, which constituted a tripping hazard;

m) Knew or should have known of the dangerous conditions at The Station and failed to remedy those conditions; and

n) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

1009. As a direct and proximate result thereof, the plaintiff, Eric Malardo, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

1010. As a further direct and proximate result thereof, the plaintiff, Eric Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

1011. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

1012. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1013. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

## CLAIMS AGAINST MANIC MUSIC MANAGEMENT, INC.

## COUNT ONE HUNDRED FORTY-EIGHT
**By Eric Malardo**
**(Negligence)**

1014. Paragraphs One (1) through One Thousand Fourteen (1014) are hereby incorporated as if fully set forth herein.

1015. The defendant Manic Music Management, Inc. and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to the plaintiff Eric Malardo in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station; and

f) Knew or should have known that the band Great White would use pyrotechnics during its concert and yet failed to take reasonable and necessary precautions.

1016. As a direct and proximate result thereof, the plaintiff, Eric Malardo, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

1017. As a further direct and proximate result thereof, the plaintiff, Eric Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

1018. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

1019. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1020. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

## CLAIMS AGAINST JACK RUSSELL, MARK KENDALL, DAVID FILICE ERIC POWERS, d/b/a GREAT WHITE

## COUNT ONE HUNDRED FORTY-NINE
**By Eric Malardo**
**(Negligence)**

1021. Paragraphs One (1) through One Thousand Twenty (1020) are hereby incorporated as if fully set forth herein.

1022. The defendants Jack Russell, Mark Kendall, David Filice, Eric Powers, and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to Eric Malardo in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station; and

f) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions.

1023. As a direct and proximate result thereof, the plaintiff, Eric Malardo, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

1024. As a further direct and proximate result thereof, the plaintiff, Eric Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

1025. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

1026. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1027. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

## CLAIMS AGAINST DANIEL BICHELE

## COUNT ONE HUNDRED FIFTY

**By Eric Malardo**

**(Negligence)**

1028. Paragraphs One (1) through One Thousand Twenty-Seven (1027) are hereby incorporated as if fully set forth herein.

1029. The defendant Daniel Bichele and/or his agents, servants, or employees, is liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to Eric Malardo in one or more of the following respects, in that he or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Negligently activated dangerous pyrotechnic devices in an overcrowded night-club where it could easily ignite toxic flammable sound-proofing insulation on the walls and ceiling;

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station; and

g) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics.

1030. As a direct and proximate result thereof, the plaintiff, Eric Malardo, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

1031. As a further direct and proximate result thereof, the plaintiff, Eric Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

1032. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

1033. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1034. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

## CLAIMS AGAINST PAUL WOOLNOUGHT AND KNIGHT RECORDS, INC.

## COUNT ONE HUNDRED FIFTY-ONE

**By Eric Malardo**
**(Negligence)**

1035. Paragraphs One (1) through One Thousand Thirty-Four (1034) are hereby incorporated as if fully set forth herein.

1036. The defendants Paul Woolnough and/or Knight Records, Inc. and/or his or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to Eric Malardo in one or more of the following respects, in that he or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Negligently activated dangerous pyrotechnic devices in an overcrowded night-club where it could easily ignite toxic flammable sound-proofing insulation on the walls and ceiling;

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

g) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions; and

h) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics.

1037. As a direct and proximate result thereof, the plaintiff, Eric Malardo, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

1038. As a further direct and proximate result thereof, the plaintiff, Eric Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

1039. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

1040. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1041. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

## CLAIMS AGAINST ANHEUSER-BUSCH, INC.

## COUNT ONE HUNDRED FIFTY-TWO

**By Eric Malardo**

**(Negligence)**

1042. Paragraphs One (1) through One Thousand Forty-One (1041) are hereby incorporated as if fully set forth herein.

1043. The defendant Anheuser-Busch, Inc. stood to profit, monetarily or through increased brand awareness, from its sponsorship of and marketing efforts at the Great White concert at The Station on February 20, 2003.

1044. The defendant Anheuser-Busch, Inc., by and through its marketing and promotional activities, including distribution of specially-prepared beer and tickets to the Great White concert, caused or contributed to the dangerous overcrowding at The Station on February 20, 2003.

1045. The defendant Anheuser-Busch, Inc provided funding for promotions or paid for promotions for the event, thereby inducing patrons to attend the event.

1046. The defendant Anheuser-Busch, Inc. and/or its agents, servants, or employees, owed a legal duty to the Plaintiffs and is liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting death of the plaintiff decedent in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities;

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

g) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions;

h) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics; and

i) Attached its name to the event, thereby inducing patrons to attend the event because of the credibility given to the event by use of the name Anheuser-Busch, Inc.

1047. As a direct and proximate result thereof, the plaintiff, Eric Malardo, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

1048. As a further direct and proximate result thereof, the plaintiff, Eric Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

1049. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

1050. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1051. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

## CLAIMS AGAINST MCLAUGHLIN & MORAN, INC

## COUNT ONE HUNDRED FIFTY-THREE
**By Eric Malardo**
**(Negligence)**

1052. Paragraphs One (1) through One Thousand Fifty-One (1051) are hereby incorporated as if fully set forth herein.

1053. The defendant McLaughlin & Moran, Inc. stood to profit, monetarily or through increased brand awareness, from its sponsorship of and marketing efforts at the Great White concert at The Station on February 20, 2003.

1054. The defendant McLaughlin & Moran, Inc., by and through its marketing and promotional activities, including distribution of specially-prepared beer and promotional tickets to the Great White concert, caused or contributed to the dangerous overcrowding at The Station on February 20, 2003.

1055. The defendant, McLaughlin & Moran, Inc provided funding for promotions or paid for promotions for the event, thereby inducing patrons to attend the event.

1056. The defendant McLaughlin & Moran, Inc. and/or its agents, servants, or employees, owed a legal duty to the Plaintiffs and is liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to Eric Malardo in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities;

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

g) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions;

h) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics; and

i) Attached its name to the event, thereby inducing patrons to attend the event because of the credibility given to the event by use of the name McLaughlin & Moran, Inc.

1057. As a direct and proximate result thereof, the plaintiff, Eric Malardo, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

1058. As a further direct and proximate result thereof, the plaintiff, Eric Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

1059. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

1060. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1061. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

## CLAIMS AGAINST CLEAR CHANNEL COMMUNICATIONS, INC.

## COUNT ONE HUNDRED FIFTTY-FOUR
**By Eric Malardo**
**(Negligence)**

1062. Paragraphs One (1) through One Thousand Sixty-One (1061) are hereby incorporated as if fully set forth herein.

1063. The defendant Clear Channel Communications, Inc., d/b/a WHJY-FM stood to profit, monetarily or through increased brand awareness, from its sponsorship of and marketing efforts at the Great White concert at The Station on February 20, 2003.

1064. The defendant Clear Channel Communications, Inc., d/b/a WHJY-FM by and through their marketing and promotional activities, including distribution of promotional tickets to the Great White concert, caused or contributed to the dangerous overcrowding at The Station on February 20, 2003.

1065. The defendant, Clear Channel Communications, Inc., d/b/a WHJY-FM provided funding for promotions or paid for promotions for the event, thereby inducing patrons to attend the event.

1066. The defendant Clear Channel Communications, Inc., d/b/a WHJY-FM and/or their agents, servants, or employees, owed a legal duty and are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to Eric Malardo in one or more of the following respects, in that they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities;

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

g) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions;

h) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics; and

i) Attached its name to the event, thereby inducing patrons to attend the event because of the credibility given to the event by use of the name Clear Channel Communications, Inc., d/b/a WHJY-FM.

1067. As a direct and proximate result thereof, the plaintiff, Eric Malardo, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

1068. As a further direct and proximate result thereof, the plaintiff, Eric Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

1069. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

1070. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1071. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**CLAIMS AGAINST LUNA TECH, INC**
**AND LUNA TECH PYROTECHNIC, INC**

**COUNT ONE HUNDRED FIFTY-FIVE**
**By Eric Malardo**
**(Negligence)**

1072. Paragraphs One (1) through One Thousand Seventy-One (1,071) are hereby incorporated as if fully set forth herein.

1073. The defendants Luna Tech, Inc. and Luna Tech Pyrotechnic, GMBH, and/or their agents, servants, or employees, owed a legal duty to the Plaintiffs and are liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from sale and use of the pyrotechnics product, in one or more of the following respects, in that they:

a) Placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the devices were highly flammable and could not be safely used by bands in night-clubs;

b) Sold said devices to bands and represented that said devices were safe for their intended uses;

c) Failed to provide proper and appropriate warnings to product users;

d) Failed to properly design, manufacture, assemble, test, label, and market the devices;

e) Failed to warn that pyrotechnics could not be safely used in night-clubs or similar spaces where flammable foam insulation or other unsuitable construction material was installed;

f) Said substance was defective and unreasonably dangerous and could not be used without unreasonable risk of injury to the decedent;

g) The warnings and instructions which were given were inadequate and failed to provide sufficient notice to the decedent of the dangerous propensities of said product;

h) The Defendants misrepresented to the decedent and the general public that the substance in question was safe for use by the public;

i) The Defendants failed to disclose to the decedent and the general public the dangerous propensities of said substance;

j) The Defendants were negligent in that they failed to properly and adequately test said product prior to marketing it in that they designed said product in a defective manner;

k) The Defendants were negligent in that they knew or should have known of the dangerous characteristics of said product, yet continued to manufacture and distribute said product;

l) The Defendants were negligent in that they used improper materials in the construction of said product; and

m) The Defendants knew or should have known of the dangerous characteristics of said product, and yet decided to market and continued to market it.

1074. As a direct and proximate result thereof, the plaintiff, Eric Malardo, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

1075. As a further direct and proximate result thereof, the plaintiff, Eric Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

1076. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

1077. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1078. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT ONE HUNDRED FIFTY-SIX**
**By Eric Malardo**
**(Strict Product Liability)**

1079. Paragraphs One (1) through One Thousand Seventy-Eight (1,078) are hereby incorporated as if fully set forth herein.

1080. The aforesaid product was not altered or modified in any way by the users or any third party from the condition in which it was manufactured and sold.

1081. At all times relevant herein, said substance was expected to and did reach the users without substantial change in condition in which it was sold or manufactured.

1082. The defendants, Luna Tech, Inc. and Luna Tech Pyrotechnic, GMBH is a product seller.

1083. The defendants Luna Tech, Inc. and Luna Tech Pyrotechnic, GMBH, and/or their agents, servants, or employees, are strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale and use of the pyrotechnics product, in one or more of the following respects, in that they:

a) Placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the devices were highly flammable and could not be safely used by bands in night-clubs;

b) Sold said devices to bands and represented that said devices were safe for their intended uses;

c) Failed to provide proper and appropriate warnings to product users;

d) Failed to properly design, manufacture, assemble, test, label, and market the devices;

e) Failed to warn that pyrotechnics could not be safely used in night-clubs or similar spaces where flammable foam insulation or other unsuitable construction material was installed;

f) Said substance was defective and unreasonably dangerous and could not be used without unreasonable risk of injury to the decedent;

g) The warnings and instructions which were given were inadequate and failed to provide sufficient notice to the decedent of the dangerous propensities of said product;

h) The Defendants misrepresented to the decedent and the general public that the substance in question was safe for use by the public;

i) The Defendants failed to disclose to the decedent and the general public the dangerous propensities of said substance;

j) Defendants were negligent in that they failed to properly and adequately test said product prior to marketing it in that they designed said product in a defective manner;

k) The Defendants were negligent in that they knew or should have known of the dangerous characteristics of said product, yet continued to manufacture and distribute said product;

l) The Defendants were negligent in that they used improper materials in the construction of said product; and

m) The Defendants knew or should have known of the dangerous characteristics of said product, and yet decided to market and continued to market it.

1084. As a direct and proximate result thereof, the plaintiff, Eric Malardo, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

1085. As a further direct and proximate result thereof, the plaintiff, Eric Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1086. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1087. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1088. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**CLAIMS TO JOINT VENTURE LIABILITY AS TO JEFFREY DERDERIAN, MICHAEL DERDERIAN, AND DERCO LLC. D/B/A THE STATION, MANIC MUSIC MANAGEMENT, INC., JACK RUSSELL, MARK KENDALL, DAVID FILICE, ERIC POWERS, DANIEL BICHIELE, PAUL WOOLNOUGH, KNIGHT RECORDS, INC., ANHEUSER-BUSCH, INC., MCLAUGHLIN & MORAN, INC., CLEAR CHANNEL COMMUNICATIONS, INC., D/B/A WHJY-FM, MOTIVA ENTERPRISES, LLC. AND SHELL OIL COMPANY AND THE TOWN OF WEST WARWICK AND STATE OF RHODE ISLAND**

**COUNT ONE HUNDRED FIFTY-SEVEN**
**by Eric Malardo**
**(Negligence)**

1089. Paragraphs One (1) through One Thousand Eighty-Eight (1,088) are hereby incorporated as if fully set forth herein.

1090. Prior to the Great White concert that occurred on February 20, 2003, the defendants Jeffrey Derderian, Michael Derderian, and DERCO LLC d/b/a The Station, Manic Music Management, Inc., Jack Russell, Mark Kendall, David Filice, Eric Powers, Daniel Bichiele, Paul Woolnough, Knight Records, Inc., Anheuser-Busch, Inc., McLaughlin & Moran, Inc., Clear Channel Communications, Inc., d/b/a WHJY-FM, Motiva Enterprises, LLC and Shell Oil Company and The Town of West Warwick and State of Rhode Island., entered into an express or implied agreement for the common purpose and design of planning, endorsing, sponsoring, promoting, and/or advertising the concert.

1091. The defendants joined and participated in this joint venture for the purpose of pursuing their common business interests and for economic gain.

1092. Each of the participating defendants had a right to voice concerns regarding the event and each controlled certain aspects of the planning, endorsement, sponsorship, promotion, and/or advertising relating to the Great White concert, including but not limited to the selection and inspection of the venue, The Station.

1093. The defendants, and/or their agents, servants, employees and/or contractors acting within the course and scope of their employment or agency, owed a legal duty to the Plaintiffs and are liable and legally responsible for the injuries, damages, and deaths resulting from negligent, careless and/or reckless acts or omissions in planning, endorsing, sponsoring, promoting and/or advertising the Great White concert that occurred on February 20, 2003, in one or more of the following respects:

a) Failed to properly manage, control, supervise and/or inspect The Station night-club prior to and during the Great White concert;

b) Installed or permitted to be installed highly flammable and toxic foam material around the stage of the night-club and failed to ensure that the sound-proofing material was fire resistant, in violation of R.I. Gen. Laws Section 23.28.6-15;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to inspect proper emergency lighting and exit signs that were operable in the event of fire or power outage, in violation of R.I. Gen. Laws Section 23-28.6-13;

f) Failed to adequately inspect The Station for safety hazards, or negligently performed same;

g) Failed to inspect for sprinklers or other fire prevention equipment and apparatus at The Station;

h) Failed to provide adequate exits and failed to inform patrons of The Station of the location of fire exits or require personnel present to do so;

i) Allowed unsafe numbers of persons on the premises during the Great White performance;

j) Allowed The Station to become overcrowded with patrons during performances;

k) Caused or allowed the parking of vehicles in an area around The Station structure so as to impede safe egress in the event of a fire;

l) Caused or allowed uneven floor surfaces in The Station which constituted a tripping hazard;

m) Knew or should have known of the dangerous conditions at The Station and failed to remedy those conditions;

n) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station; and

o) Were otherwise negligent in their selection and/or inspection of the venue for the Great White concert, The Station.

1094. As a direct and proximate result thereof, the plaintiff, Eric Malardo, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

1095. As a further direct and proximate result thereof, the plaintiff, Eric Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1096. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost

wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

1097. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1098. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**CLAIMS AGAINST SHELL OIL CORPORATION AND MOTIVA ENTERPRISES, LLC**

**COUNT ONE HUNDRED FIFTY-EIGHT**
**By Eric Malardo**
**(Negligence)**

1099. Paragraphs One (1) through One Thousand Ninety-Eight (1,098) are hereby incorporated as if fully set forth herein.

1100. Upon information and belief, the defendant, Shell Oil Company, d/b/a Motiva Enterprises, LLC, was the owner/lessor of certain property located at 7380 Post Road, North Kingstown, Rhode Island.

1101. Upon information and belief, defendant DERCO LLC was the manager and lessee of the aforesaid property owned by, the defendant, Shell Oil Company, d/b/a Motiva Enterprises, LLC.

1102. Upon information and belief, the defendant Shell Oil Company dominated, controlled and/or managed the practices, policies and finances of Motiva, LLC and the gas station operation at the 7380 Post Road facility, including but not limited to exercising joint control over the management, inventory, marketing, promotions, and pricing policies.

1103. The defendants Shell Oil Company and Motiva Enterprises, LLC owed a legal duty to patrons of The Station because they engaged in the promotion of the Great White performance at The Station by distributing certain tickets in return for certain purchases of its merchandise, which promotion was expressly or impliedly approved by Shell Oil Company and its subsidiary Motiva Enterprises, LLC in negligent disregard for the safety of the anticipated patrons at the performance.

1104. The defendants Shell Oil Company and Motiva Enterprises, LLC endorsed, sponsored, promoted, and/or advertised the Great White concert and stood to profit monetarily these activities and marketing efforts.

1105. Upon information and belief, the defendants Shell Oil Company and Motiva Enterprises, LLC expressly and/or impliedly represented and warranted to the public through its marketing, promotional activities and ticket sales that the venue selected for the show was reasonably safe and would not subject patrons to an unreasonable risk of serious injury or death.

1106. The defendants, Shell Oil Company and Motiva Enterprises, LLC, knew or should have known that, if the venue for the performance did not have adequate fire protection and suppression equipment, that patrons would be subjected to a foreseeable, unreasonable risk of injury or even death.

1107. The defendants, Shell Oil Company and Motiva Enterprises, LLC, knew or should have known that members of the public, including the Injured Plaintiff, were relying on it to exercise proper care, skill and diligence in the review and selection of a safe venue for concerts for which it sold tickets.

1108. The defendants Shell Oil Company and Motiva Enterprises, LLC were negligent and careless in the manner in which they engaged in the promotion of the aforesaid performance, which negligence and carelessness caused the injuries and damages as hereinafter set forth.

1109. The defendants Shell Oil Company and Motiva Enterprises, LLC through its agents, servants, employees or contractors acting within the course and scope of their employment or agency, owed a legal duty to the Plaintiff and is liable and legally responsible for negligence in causing the death of the Plaintiffs Decedent in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the nightclub;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the nightclub in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the nightclub by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities;

f) Failed to properly and adequately review, inspect and approve The Station as a safe venue for members of the public;

g) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

h) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions;

i) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics; and

j) Attached its name to the event, thereby inducing patrons to attend the event because of the credibility given to the event by use of the name Shell Oil.

1110. As a direct and proximate result thereof, the plaintiff, Eric Malardo, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

1111. As a further direct and proximate result thereof, the plaintiff, Eric Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

1112. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

1113. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1114. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

## CLAIMS AGAINST TOWN OF WEST WARWICK AND FIRE INSPECTOR, DENNIS LAROCQUE

### COUNT ONE HUNDRED FIFTY-NINE
**By Eric Malardo**
**(Negligence)**

1115. Paragraphs One(1) through One Thousand One Hundred Fourteen (1,114) are hereby incorporated as if fully set forth herein.

1116. The Town of West Warwick and its Fire Inspector, Dennis Larocque, are responsible for the inspection of commercial facilities in the Town of West Warwick and enforcement of the building and fire code laws of the State of Rhode Island.

1117. The Town of West Warwick and Fire Inspector, Dennis Larocque, owed a legal duty to the public in general and the patrons of The Station in particular to exercise reasonable care and due diligence by properly inspecting commercial properties in the Town of West Warwick.

1118. The Town of West Warwick and Fire Inspector, Dennis Larocque, were negligent and careless in failing to properly inspect the Station and enforce the laws of the State of Rhode Island, which negligence and carelessness proximately caused the injuries and damages as hereinafter set forth.

1119. The Town is liable for the negligence of its agents, servants, and employees, and owed a special duty to each Plaintiff.

1120. The Town of West Warwick and Fire Inspector, Dennis Larocque, through its agents, servants, and employees were negligent and careless in one or more of the following ways, in that they:

a) Failed to enforce the building code and fire safety laws of the State of Rhode Island;

b) Failed to adequately inspect The Station;

c) Failed to conduct regular inspections of The Station;

d) Failed to discover and take action for the highly flammable and toxic materials existing on the premises of The Station, which materials should have been discovered by a reasonable inspection;

e) Failed to properly train personnel in fire safety laws, regulations and standards;

f) Failed to require sprinkler systems or other fire prevention devices at The Station;

g) Failed to employ adequate employees and/or personnel to adequately enforce the fire safety laws, regulations and standards;

h) Failed to appropriate adequate funds for the enforcement of fire safety laws, regulations and standards;

i) Knew or should have known of the use of pyrotechnics at The Station and failed to take action to prevent the same when it was unsafe to use pyrotechnics under the circumstances;

j) Failed to enforce Section 23-28-18-4 of the Rhode Island General Laws by failing to ensure that The Station, which provided performances to more than seventy-five (75) people, was free from combustible debris; and

k) Failed to require that The Station limit the number of patrons on the premises to a safe number of patrons.

1121. As a direct and proximate result thereof, the plaintiff, Eric Malardo, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

1122. As a further direct and proximate result thereof, the plaintiff, Eric Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

1123. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

1124. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1125. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

1126. The Fire Inspector, Dennis Larocque, is entitled to indemnity by the Town of West Warwick, pursuant to Section 45-15-16 of the Rhode Island General Laws.

1127. Pursuant to Section 45-15-5 of the Rhode Island General Laws, the Plaintiffs have provided the Town of West Warwick with a valid Notice of Presentment of Claim, and more than forty (40) days have passed since said notice was provided.

**CLAIMS AGAINST STATE OF RHODE ISLAND**
**AND FIRE MARSHAL, IRVING J. OWENS**

**COUNT ONE HUNDRED SIXTY**
**By Eric Malardo**
**(Negligence)**

1128. Paragraphs One (1) through One Thousand One Hundred Twenty-Seven (1,127) are hereby incorporated as if fully set forth herein.

1129. The State of Rhode Island and its Fire Marshal, Irving J. Owens, are responsible for the inspection of commercial facilities in the Town of West Warwick and enforcement of the building and fire code laws of the State of Rhode Island.

1130. Pursuant to Section 23-28.2-4 of the Rhode Island General Laws, the State of Rhode Island and Fire Marshal, Irving J. Owens, owed a legal duty to the public in general and the patrons of The Station in particular to exercise reasonable care and due diligence by properly inspecting or causing proper inspections commercial properties in the Town of West Warwick, and to enforce and perform the duties required by the Fire Safety Code.

1131. The State and Fire Marshal were negligent and careless in failing to properly inspect the Station and enforce the laws of the State of Rhode Island, which negligence and carelessness proximately caused the injuries and damages as hereinafter set forth.

1132. The State and Fire Marshal are liable for the negligence of its agents, servants, and employees, and owed a special duty to each Plaintiff.

1133. The State and Fire Marshal, through their agents, servants, and employees were negligent and careless in one or more of the following ways, in that they:

a) Failed to enforce the building code and fire safety laws of the State of Rhode Island;

b) Failed to adequately inspect The Station;

c) Failed to conduct regular inspections of The Station;

d) Failed to discover and take action for the highly flammable and toxic materials existing on the premises of The Station, which materials should have been discovered by a reasonable inspection;

e) Failed to properly train personnel in fire safety laws, regulations and standards;

f) Failed to require sprinkler systems or other fire prevention devices at The Station;

g) Failed to employ adequate employees and/or personnel to adequately enforce the fire safety laws, regulations and standards;

h) Failed to appropriate adequate funds for the enforcement of fire safety laws, regulations and standards;

i) Knew or should have known of the use of pyrotechnics at The Station and failed to take action to prevent the same when it was unsafe to use pyrotechnics under the circumstances;

j) Failed to enforce Section 23-28-18-4 of the Rhode Island General Laws by failing to ensure that The Station, which provided performances to more than seventy-five (75) people, was free from combustible debris; and

k) Failed to require that The Station limit the number of patrons on the premises to a safe number of patrons.

1134. As a direct and proximate result thereof, the plaintiff, Eric Malardo, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

1135. As a further direct and proximate result thereof, the plaintiff, Eric Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

1136. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

1137. As a further direct and proximate result thereof, the plaintiff, Eric Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1138. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

1139. The Fire Marshal, Irving J. Owens, is entitled to indemnity by the Town of West Warwick pursuant to Section 23-28.2-17 of the Rhode Island General Laws.

1140. Pursuant to Section 45-15-5 of the Rhode Island General Laws, the Plaintiffs have provided the Town of West Warwick with a valid Notice of Presentment of Claim, and more than forty (40) days have passed since said notice was provided.

## CLAIMS AGAINST AMERICAN FOAM CORPORATION

### COUNT ONE HUNDRED SIXTY-ONE
**By Michelle Malardo**
**(Negligence)**

1141. Paragraphs One (1)through One Thousand One Hundred Forty (1,140) are hereby incorporated as if fully set forth herein.

1142. The defendant American Foam Corporation, and/or its agents, servants, or employees, owed a legal duty to the Plaintiff and are liable and legally responsible for negligence which was a proximate cause of the injuries, and damages resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

1143. As a direct and proximate result thereof, the plaintiff, Michelle Marlardoi, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1144. As a further direct and proximate result thereof, the plaintiff, Michelle Marlardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1145. As a further direct and proximate result thereof, the plaintiff, Michelle Marlardo, lost time from her employment, thereby suffering an economic loss in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1146. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1147. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT ONE HUNDRED SIXTY-TWO**
**By Michelle Malardo**
**(Strict Product Liability)**

1148. Paragraphs One (1) through One Thousand One Hundred Forty-Seven (1,147) are hereby incorporated as if fully set forth herein.

1149. The aforesaid product was not altered or modified in any way by the users or any third party from the condition in which it was manufactured and sold.

1150. At all times relevant herein, said substance was expected to and did reach the users without substantial change in condition in which it was sold or manufactured.

1151. The defendant American Foam Corp. is a product seller.

1152. The defendant American Foam Corporation, and/or its agents, servants, or employees, are strictly liable and legally responsible for the injuries and damages resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

1153. As a direct and proximate result thereof, the plaintiff, Michelle Malardo, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1154. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1155. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1156. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1157. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

## CLAIMS AGAINST FOAMEX INTERNATIONAL

## COUNT ONE HUNDRED SIXTY-THREE

**By the Michelle Malardo**

**(Negligence)**

1158. Paragraphs One (1)through One Thousand Three Hundred (1,300)are incorporated as if more fully set forth herein.

1159. The defendant Foamex International, and/or its agents, servants, or employees, owed a legal duty to the Plaintiffs and are liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

1160. As a direct and proximate result thereof, the plaintiff, Michelle Malardo, suffered serious injuries to her body and person causing him to suffer severe mental and physical pain and distress.

1161. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1162. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, lost time from her employment, thereby suffering an economic loss in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1163. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1164. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT ONE HUNDRED SIXTY-FOUR**
**By Michelle Malardo**
**(Strict Products Liability)**

1165. Paragraphs One (1) through One Thousand One Hundred Sixty-Four (1,164) are hereby incorporated as if fully set forth herein.

1166. The aforesaid product was not altered or modified in any way by the users or any third party from the condition in which it was manufactured and sold.

1167. At all times relevant herein, said substance was expected to and did reach the users without substantial change in condition in which it was sold or manufactured.

1168. The defendant Foamex International is a product seller.

1169. The defendant Foamex International, and/or its agents, servants, or employees, are strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

1170. As a direct and proximate result thereof, the plaintiff, Michelle Malardo, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1171. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

1172. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, lost time from her employment, thereby suffering an economic loss in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

1173. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1174. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**CLAIMS AGAINST BARRY H. WARNER**

**COUNT ONE HUNDRED SIXTY-FIVE**
**By Michelle Malardo**
**(Negligence)**

1175. Paragraphs One (1) through One Thousand One Hundred Seventy-Four (1,174) are hereby incorporated as if fully set forth herein.

1176. At all times relevant hereto, the defendant Barry H. Warner was employed by American Foam Corporation and was acting in the course and scope of his employment.

1177. Prior to February 20, 2003, the defendant Barry H. Warner sold the foam material to the defendants Jeffery Derderian, Michael Derderian, and/or DERCO, LLC, d/b/a The Station to be used as sound-proofing material at the former Station night-club and represented to said defendants that the foam could be safely and appropriately used as sound-proofing material when he knew or should have known that in fact the foam was highly flammable and toxic and could not be safely used for sound-proofing in a night-club where smoking and use of pyrotechnics was permitted.

1178. The defendant Barry H. Warner is liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) He placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) He represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) He failed to provide proper and appropriate warnings to product users;

d) He knew or should have known of the dangerous propensities of said foam yet sold it with reckless disregard for the safety of the public, including the plaintiff;

e) He breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose;

f) He breached its express warranty that said foam was safe and effective for use;

g) He provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

h) He failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

i) He failed to provide sound-proofing material that was fire resistant when he knew the intended use of the product;

j) He failed to warn that pyrotechnics could not be safely used in spaces where the foam insulation was installed; and

k) He failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

1179. As a direct and proximate result thereof, the plaintiff, Michelle Malardo, suffered serious injuries to her body and person causing him to suffer severe mental and physical pain and distress.

1180. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1181. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1182. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1183. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT ONE HUNDRED SIXTY-SIX**
**By Michelle Malardo**
**(Strict Product Liability)**

1184. Paragraphs One (1) through One Thousand One Hundred Eighty-Three (1,183) are hereby incorporated as if fully set forth herein.

1185. At all times relevant hereto, the defendant Barry H. Warner was employed by American Foam Corporation and was acting in the course and scope of his employment.

1186. Prior to February 20, 2003, the defendant Barry H. Warner sold the foam material to the defendants Jeffery Derderian, Michael Derderian, and/or DERCO, d/b/a/ The Station, to be used as sound-proofing material at the former Station night-club and represented to said defendants that the foam could be safely and appropriately used as sound-proofing material when he knew or should have known that in fact the foam was highly flammable and toxic and could not be safely used for sound-proofing in a night-club where smoking and use of pyrotechnics was permitted.

1187. The defendant Barry H. Warner is strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) He placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) He represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) He failed to provide proper and appropriate warnings to product users;

d) He knew or should have known of the dangerous propensities of said foam yet sold it with reckless disregard for the safety of the public, including the plaintiff's decedent;

e) He breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose;

f) He breached its express warranty that said foam was safe and effective for use;

g) He provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

h) He failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

i) He failed to provide sound-proofing material that was fire resistant when he knew the intended use of the product;

j) He failed to warn that pyrotechnics could not be safely used in spaces where the foam insulation was installed; and

k) He failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

1188. As a direct and proximate result thereof, the plaintiff, Michelle Malardo, suffered serious injuries to her body and person causing him to suffer severe mental and physical pain and distress.

1189. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1190. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1191. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1192. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

## CLAIMS AGAINST JEFFERY DERDERIAN, MICHAEL DERDERIAN AND DERCO,LLC, d/b/a THE STATION

## COUNT ONE HUNDRED SIXTY-SEVEN
**By Michelle Marlardo**
**(Negligence)**

1193. Paragraphs One (1) through One Thousand One Hundred Ninety-Two (1,192) are hereby incorporated as if fully set forth herein.

1194. The defendants Jeffrey Derderian, Michael Derderian, and/or DERCO, LLC, d/b/a The Station and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to Michelle Marlardo in one or more of the following respects, in that they:

a) Failed to properly manage, control, supervise and/or inspect The Station night-club prior to and during the Great White concert;

b) Installed highly flammable and toxic foam material around the stage of the night-club and failed to ensure that the sound-proofing material was fire resistant, in violation of R.I. Gen. Laws Section 23.28.6-15;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to install, maintain, or inspect proper emergency lighting and exit signs that were operable in the event of fire or power outage, in violation of R.I. Gen. Laws Section 23-28.6-13;

f) Failed to adequately inspect The Station for safety hazards;

g) Failed to install sprinklers or other fire prevention apparatus at The Station;

h) Failed to provide adequate exits and failed to inform patrons of The Station of the location of fire exits or require personnel present to do so;

i) Allowed unsafe numbers of persons on the premises during the Great White performance;

j) Allowed The Station to become overcrowded with patrons during performances;

k) Caused or allowed the parking of vehicles in an area around The Station structure so as to impede safe egress in the event of a fire;

l) Caused or allowed uneven floor surfaces in The Station, which constituted a tripping hazard;

m) Knew or should have known of the dangerous conditions at The Station and failed to remedy those conditions; and

n) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

1195. As a direct and proximate result thereof, the plaintiff, Michelle Malardo, suffered serious injuries to her body and person causing him to suffer severe mental and physical pain and distress.

1196. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1197. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1198. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1199. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

## CLAIMS AGAINST MANIC MUSIC MANAGEMENT, INC

### COUNT ONE HUNDRED SIXTY-EIGHT
**By Michelle Marlardo**
**(Negligence)**

1200. Paragraphs One (1) through One Thousand One Hundred Ninety-Nine (1,199) are hereby incorporated as if fully set forth herein.

1201. The defendant Manic Music Management, Inc. and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to the plaintiff Michelle Marlardo in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station; and

f) Knew or should have known that the band Great White would use pyrotechnics during its concert and yet failed to take reasonable and necessary precautions.

1202. As a direct and proximate result thereof, the plaintiff, Michelle Malardo, suffered serious injuries to her body and person causing him to suffer severe mental and physical pain and distress.

1203. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1204. As a further direct and proximate result thereof, the plaintiff, MichelleMalardo, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1205. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1206. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**CLAIMS AGAINST JACK RUSSELL, MARK KENDALL, DAVID FILICE, ERIC POWERS, d/b/a GREAT WHITE**

**COUNT ONE HUNDRED SIXTY-NINE**
**By Michelle Malardo**
**(Negligence)**

1207. Paragraphs One (1) through One Thousand Two Hundred Six (1,206) are hereby incorporated as if fully set forth herein.

1208. The defendants Jack Russell, Mark Kendall, David Filice, Eric Powers, and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to Michelle Malardo in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station; and

f) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions.

1209. As a direct and proximate result thereof, the plaintiff, Michelle Malardo, suffered serious injuries to her body and person causing him to suffer severe mental and physical pain and distress.

1210. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1211. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1212. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1213. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**CLAIMS AGAINST DANIEL BICHELE**

**COUNT ONE HUNDRED SEVENTY**
**By Michelle Malardo**
**(Negligence)**

1214. Paragraphs One (1) through One Thousand Two Hundred Thirteen (1,213) are hereby incorporated as if more fully set forth herein.

1215. The defendant Daniel Bichele and/or his agents, servants, or employees, is liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to Michelle Malardo in one or more of the following respects, in that he or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Negligently activated dangerous pyrotechnic devices in an overcrowded night-club where it could easily ignite toxic flammable sound-proofing insulation on the walls and ceiling;

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station; and

g) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics.

1216. As a direct and proximate result thereof, the plaintiff, Michelle Malardo, suffered serious injuries to her body and person causing him to suffer severe mental and physical pain and distress.

1217. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1218. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1219. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1220. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

## CLAIMS AGAINST PAUL WOOLNOUGH AND KNIGHT RECORDS, INC.

## COUNT ONE HUNDRED SEVENTY-ONE
**By Michelle Malardo**
**(Negligence)**

1221. Paragraphs One (1) through One Thousand Two Hundred Twenty (1,220) are hereby incorporated as if fully set forth herein.

1222. The defendants Paul Woolnough and/or Knight Records, Inc. and/or his or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to Michelle Malardo in one or more of the following respects, in that he or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Negligently activated dangerous pyrotechnic devices in an overcrowded night-club where it could easily ignite toxic flammable sound-proofing insulation on the walls and ceiling;

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

g) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions; and

h) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics.

1223. As a direct and proximate result thereof, the plaintiff, Michelle Malardo, suffered serious injuries to her body and person causing him to suffer severe mental and physical pain and distress.

1224. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1225. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1226. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1227. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**CLAIMS AGAINST ANHEUSER-BUSCH, INC.**

**COUNT ONE HUNDRED SEVENTY-TWO**
**By Michelle Malardo**
**(Negligence)**

1228. Paragraphs One (1) through One Thousand Two Hundred Twenty-Seven (1,227) are hereby incorporated as if fully set forth herein.

1229. The defendant Anheuser-Busch, Inc. stood to profit, monetarily or through increased brand awareness, from its sponsorship of and marketing efforts at the Great White concert at The Station on February 20, 2003.

1230. The defendant Anheuser-Busch, Inc., by and through its marketing and promotional activities, including distribution of specially-prepared beer and tickets to the Great White concert, caused or contributed to the dangerous overcrowding at The Station on February 20, 2003.

1231. The defendant Anheuser-Busch, Inc provided funding for promotions or paid for promotions for the event, thereby inducing patrons to attend the event.

1232. The defendant Anheuser-Busch, Inc. and/or its agents, servants, or employees, owed a legal duty to the Plaintiffs and is liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting death of the plaintiff decedent in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities;

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

g) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions;

h) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics; and

i) Attached its name to the event, thereby inducing patrons to attend the event because of the credibility given to the event by use of the name Anheuser-Busch, Inc.

1233. As a direct and proximate result thereof, the plaintiff, Michelle Malardo, suffered serious injuries to her body and person causing him to suffer severe mental and physical pain and distress.

1234. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1235. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1236. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1237. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

## CLAIMS AGAINST MCLAUGHLIN & MORAN, INC.

## COUNT ONE HUNDRED SEVENTY-THREE
**By Michelle Malardo**
**(Negligence)**

1238. Paragraphs One through One Thousand Two Hundred Thirty-Seven (1,237) are hereby incorporated as if fully set forth herein.

1239. The defendant McLaughlin & Moran, Inc. stood to profit, monetarily or through increased brand awareness, from its sponsorship of and marketing efforts at the Great White concert at The Station on February 20, 2003.

1240. The defendant McLaughlin & Moran, Inc., by and through its marketing and promotional activities, including distribution of specially-prepared beer and promotional tickets to the Great White concert, caused or contributed to the dangerous overcrowding at The Station on February 20, 2003.

1241. The defendant, McLaughlin & Moran, Inc provided funding for promotions or paid for promotions for the event, thereby inducing patrons to attend the event.

1242. The defendant McLaughlin & Moran, Inc. and/or its agents, servants, or employees, owed a legal duty to the Plaintiffs and is liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to Michelle Malardo in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities;

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

g) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions;

h) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics; and

i) Attached its name to the event, thereby inducing patrons to attend the event because of the credibility given to the event by use of the name McLaughlin & Moran, Inc.

1243. As a direct and proximate result thereof, the plaintiff, Michelle Malardo, suffered serious injuries to her body and person causing him to suffer severe mental and physical pain and distress.

1244. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1245. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1246. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1247. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**CLAIMS AGAINST CLEAR CHANNEL COMMUNICATIONS, INC. d/b/a WHJY-FM**

**COUNT ONE HUNDRED SEVENT-FOUR**
**By Michelle Malardo**
**(Negligence)**

1248. Paragraphs One (1) through One Thousand Two Hundred Forty-Seven (1,247) are hereby incorporated as if fully set forth herein.

1249. The defendant Clear Channel Communications, Inc., d/b/a WHJY-FM stood to profit, monetarily or through increased brand awareness, from its sponsorship of and marketing efforts at the Great White concert at The Station on February 20, 2003.

1250. The defendant Clear Channel Communications, Inc., d/b/a WHJY-FM by and through their marketing and promotional activities, including distribution of promotional tickets to the Great White concert, caused or contributed to the dangerous overcrowding at The Station on February 20, 2003.

1251. The defendant, Clear Channel Communications, Inc., d/b/a WHJY-FM provided funding for promotions or paid for promotions for the event, thereby inducing patrons to attend the event.

1252. The defendant Clear Channel Communications, Inc., d/b/a WHJY-FM and/or their agents, servants, or employees, owed a legal duty and are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to Michelle Malardo in one or more of the following respects, in that they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities;

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

g) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions;

h) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics; and

i) Attached its name to the event, thereby inducing patrons to attend the event because of the credibility given to the event by use of the name Clear Channel Communications, Inc., d/b/a WHJY-FM.

1253. As a direct and proximate result thereof, the plaintiff, Michelle Malardo, suffered serious injuries to her body and person causing him to suffer severe mental and physical pain and distress.

1254. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1255. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1256. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1257. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

## CLAIMS AGAINST LUNA TECH, INC, AND LUNA TECH PYROTECHNIC, GMBH

## COUNT ONE HUNDRED SEVENTY-FIVE
**By Michelle Malardo**
**(Negligence)**

1258. Paragraphs One (1) through One Thousand Two Hundred Fifty-Seven (1,257) are incorporated as if more fully set forth herein.

1259. The defendants Luna Tech, Inc. and Luna Tech Pyrotechnic, GMBH, and/or their agents, servants, or employees, owed a legal duty to the Plaintiffs and are liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from sale and use of the pyrotechnics product, in one or more of the following respects, in that they:

a) Placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the devices were highly flammable and could not be safely used by bands in night-clubs;

b) Sold said devices to bands and represented that said devices were safe for their intended uses;

c) Failed to provide proper and appropriate warnings to product users;

d) Failed to properly design, manufacture, assemble, test, label, and market the devices;

e) Failed to warn that pyrotechnics could not be safely used in night-clubs or similar spaces where flammable foam insulation or other unsuitable construction material was installed;

f) Said substance was defective and unreasonably dangerous and could not be used without unreasonable risk of injury to the decedent;

g) The warnings and instructions which were given were inadequate and failed to provide sufficient notice to the decedent of the dangerous propensities of said product;

h) The Defendants misrepresented to the decedent and the general public that the substance in question was safe for use by the public;

i) The Defendants failed to disclose to the decedent and the general public the dangerous propensities of said substance;

j) The Defendants were negligent in that they failed to properly and adequately test said product prior to marketing it in that they designed said product in a defective manner;

k) The Defendants were negligent in that they knew or should have known of the dangerous characteristics of said product, yet continued to manufacture and distribute said product;

l) The Defendants were negligent in that they used improper materials in the construction of said product; and

m) The Defendants knew or should have known of the dangerous characteristics of said product, and yet decided to market and continued to market it.

1260. As a direct and proximate result thereof, the plaintiff, Michelle Malardo, suffered serious injuries to her body and person causing him to suffer severe mental and physical pain and distress.

1261. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1262. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1263. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1264. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT ONE HUNDRED SEVENTY-SIX**
**By Michelle Malardo**
**(Strict Products Liability)**

1265. Paragraphs One (1) through One Thousand Two Hundred Sixty-Four (1,264) are hereby incorporated as if fully set forth herein.

1266. The aforesaid product was not altered or modified in any way by the users or any third party from the condition in which it was manufactured and sold.

1267. At all times relevant herein, said substance was expected to and did reach the users without substantial change in condition in which it was sold or manufactured.

1268. The defendants, Luna Tech, Inc. and Luna Tech Pyrotechnic, GMBH is a product seller.

1269. The defendants Luna Tech, Inc. and Luna Tech Pyrotechnic, GMBH, and/or their agents, servants, or employees, are strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale and use of the pyrotechnics product, in one or more of the following respects, in that they:

a) Placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the devices were highly flammable and could not be safely used by bands in night-clubs;

b) Sold said devices to bands and represented that said devices were safe for their intended uses;

c) Failed to provide proper and appropriate warnings to product users;

d) Failed to properly design, manufacture, assemble, test, label, and market the devices;

e) Failed to warn that pyrotechnics could not be safely used in night-clubs or similar spaces where flammable foam insulation or other unsuitable construction material was installed;

f) Said substance was defective and unreasonably dangerous and could not be used without unreasonable risk of injury to the decedent;

g) The warnings and instructions which were given were inadequate and failed to provide sufficient notice to the decedent of the dangerous propensities of said product;

h) The Defendants misrepresented to the decedent and the general public that the substance in question was safe for use by the public;

i) The Defendants failed to disclose to the decedent and the general public the dangerous propensities of said substance;

j) Defendants were negligent in that they failed to properly and adequately test said product prior to marketing it in that they designed said product in a defective manner;

k) The Defendants were negligent in that they knew or should have known of the dangerous characteristics of said product, yet continued to manufacture and distribute said product;

l) The Defendants were negligent in that they used improper materials in the construction of said product; and

m) The Defendants knew or should have known of the dangerous characteristics of said product, and yet decided to market and continued to market it.

1270. As a direct and proximate result thereof, the plaintiff, Michelle Malardo, suffered serious injuries to her body and person causing him to suffer severe mental and physical pain and distress.

1271. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1272. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1273. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1274. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**CLAIMS AGAINST JOINT VENTURE LIABILITY AS TO JEFFREY DERDERIAN, MICHAEL DERDERIAN, AND DERCO LLC. D/B/A THE STATION, MANIC MUSIC MANAGEMENT, INC., JACK RUSSELL, MARK KENDALL, DAVID FILICE, ERIC POWERS, DANIEL BICHIELE, PAUL WOOLNOUGH, KNIGHT RECORDS, INC., ANHEUSER-BUSCH, INC., MCLAUGHLIN & MORAN, INC., CLEAR CHANNEL COMMUNICATIONS, INC., D/B/A WHJY-FM, MOTIVA ENTERPRISES, LLC. AND SHELL OIL COMPANY AND THE TOWN OF WEST WARWICK AND STATE OF RHODE ISLAND**

**COUNT ONE HUNDRED SEVENTY-SEVEN**
**By Michelle Malardo**
**(Negligence)**

1275. Paragraphs One (1) through One Thousand Two Hundred Seventy-Four (1,274) are hereby incorporated as if fully set forth herein.

1276. Prior to the Great White concert that occurred on February 20, 2003, the defendants Jeffrey Derderian, Michael Derderian, and DERCO LLC d/b/a The Station, Manic Music Management, Inc., Jack Russell, Mark Kendall, David Filice, Eric Powers, Daniel Bichiele, Paul Woolnough, Knight Records, Inc., Anheuser-Busch, Inc., McLaughlin & Moran, Inc., Clear Channel Communications, Inc., d/b/a WHJY-FM, Motiva Enterprises, LLC and Shell Oil Company and The Town of West Warwick and State of Rhode Island., entered into an express or implied agreement for the common purpose and design of planning, endorsing, sponsoring, promoting, and/or advertising the concert.

1277. The defendants joined and participated in this joint venture for the purpose of pursuing their common business interests and for economic gain.

1278. Each of the participating defendants had a right to voice concerns regarding the event and each controlled certain aspects of the planning, endorsement, sponsorship, promotion, and/or advertising relating to the Great White concert, including but not limited to the selection and inspection of the venue, The Station.

1279. The defendants, and/or their agents, servants, employees and/or contractors acting within the course and scope of their employment or agency, owed a legal duty to the Plaintiffs and are liable and legally responsible for the injuries, damages, and deaths resulting from negligent, careless and/or reckless acts or omissions in planning, endorsing, sponsoring, promoting and/or advertising the Great White concert that occurred on February 20, 2003, in one or more of the following respects:

a) Failed to properly manage, control, supervise and/or inspect The Station night-club prior to and during the Great White concert;

b) Installed or permitted to be installed highly flammable and toxic foam material around the stage of the night-club and failed to ensure that the sound-proofing material was fire resistant, in violation of R.I. Gen. Laws Section 23.28.6-15;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to inspect proper emergency lighting and exit signs that were operable in the event of fire or power outage, in violation of R.I. Gen. Laws Section 23-28.6-13;

f) Failed to adequately inspect The Station for safety hazards, or negligently performed same;

g) Failed to inspect for sprinklers or other fire prevention equipment and apparatus at The Station;

h) Failed to provide adequate exits and failed to inform patrons of The Station of the location of fire exits or require personnel present to do so;

i) Allowed unsafe numbers of persons on the premises during the Great White performance;

j) Allowed The Station to become overcrowded with patrons during performances;

k) Caused or allowed the parking of vehicles in an area around The Station structure so as to impede safe egress in the event of a fire;

l) Caused or allowed uneven floor surfaces in The Station which constituted a tripping hazard;

m) Knew or should have known of the dangerous conditions at The Station and failed to remedy those conditions;

n) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station; and

o) Were otherwise negligent in their selection and/or inspection of the venue for the Great White concert, The Station.

1280. As a direct and proximate result thereof, the plaintiff, Michelle Malardo, suffered serious injuries to her body and person causing him to suffer severe mental and physical pain and distress.

1281. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1282. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1283. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1284. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**CLAIMS AGAINST SHELL OIL CORPORATION AND MOTIVA ENTERPRISES, LLC.**

**COUNT ONE HUNDRED SEVENTY-EIGHT**
**By Michelle Malardo**
**(Negligence)**

1285. Paragraphs One (1) through One Thousand Two Hundred Eighty-Four (1,284) are hereby incorporated as if fully set forth herein.

1286. Upon information and belief, the defendant, Shell Oil Company, d/b/a Motiva Enterprises, LLC, was the owner/lessor of certain property located at 7380 Post Road, North Kingstown, Rhode Island.

1287. Upon information and belief, defendant DERCO LLC was the manager and lessee of the aforesaid property owned by, the defendant, Shell Oil Company, d/b/a Motiva Enterprises, LLC.

1288. Upon information and belief, the defendant Shell Oil Company dominated, controlled and/or managed the practices, policies and finances of Motiva, LLC and the gas station operation at the 7380 Post Road facility, including but not limited to exercising joint control over the management, inventory, marketing, promotions, and pricing policies

1289. The defendants Shell Oil Company and Motiva Enterprises, LLC owed a legal duty to patrons of The Station because they engaged in the promotion of the Great White performance at The Station by distributing certain tickets in return for certain purchases of its merchandise, which promotion was expressly or impliedly approved by Shell Oil Company and its subsidiary Motiva Enterprises, LLC in negligent disregard for the safety of the anticipated patrons at the performance.

1290. The defendants Shell Oil Company and Motiva Enterprises, LLC endorsed, sponsored, promoted, and/or advertised the Great White concert and stood to profit monetarily these activities and marketing efforts.

1291. Upon information and belief, the defendants Shell Oil Company and Motiva Enterprises, LLC expressly and/or impliedly represented and warranted to the public through its marketing, promotional activities and ticket sales that the venue selected for the show was reasonably safe and would not subject patrons to an unreasonable risk of serious injury or death.

1292. The defendants, Shell Oil Company and Motiva Enterprises, LLC, knew or should have known that, if the venue for the performance did not have adequate fire protection and suppression equipment, that patrons would be subjected to a foreseeable, unreasonable risk of injury or even death.

1293. The defendants, Shell Oil Company and Motiva Enterprises, LLC, knew or should have known that members of the public, including the Injured Plaintiff, were relying on it to exercise proper care, skill and diligence in the review and selection of a safe venue for concerts for which it sold tickets.

1294. The defendants Shell Oil Company and Motiva Enterprises, LLC were negligent and careless in the manner in which they engaged in the promotion of the aforesaid performance, which negligence and carelessness caused the injuries and damages as hereinafter set forth:

a) The defendants Shell Oil Company and Motiva Enterprises, LLC through its agents, servants, employees or contractors acting within the course and scope of their employment or agency, owed a legal duty to the Plaintiff and is liable and legally responsible for negligence in causing the death of the Plaintiff's Decedent in one or more of the following respects, in that it or they:

b) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

c) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the nightclub;

d) Failed to obtain or require the necessary permits for the use of pyrotechnics at the nightclub in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Allowed the use of pyrotechnics at the nightclub by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

f) Contributed to dangerous overcrowding by and through their promotional activities;

g) Failed to properly and adequately review, inspect and approve The Station as a safe venue for members of the public;

h) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

i) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions;

j) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics; and

k) Attached its name to the event, thereby inducing patrons to attend the event because of the credibility given to the event by use of the name Shell Oil.

1295. As a direct and proximate result thereof, the plaintiff, Michelle Malardo, suffered serious injuries to her body and person causing him to suffer severe mental and physical pain and distress.

1296. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1297. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1298. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1299. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**CLAIMS AGAINST TOWN OF WEST WARWICK**
**AND FIRE INSPECTOR, DENNIS LAROCQUE**

**COUNT ONE HUNDRED SEVENTY-NINE**

**By Michelle Malardo**
**(Negligence)**

1300. Paragraphs One (1) through One Thousand Two Hundred Ninety-Nine (1,299) are hereby incorporated as if fully set forth herein.

1301. The Town of West Warwick and its Fire Inspector, Dennis Larocque, are responsible for the inspection of commercial facilities in the Town of West Warwick and enforcement of the building and fire code laws of the State of Rhode Island.

1302. The Town of West Warwick and Fire Inspector, Dennis Larocque, owed a legal duty to the public in general and the patrons of The Station in particular to exercise reasonable care and due diligence by properly inspecting commercial properties in the Town of West Warwick.

1303. The Town of West Warwick and Fire Inspector, Dennis Larocque, were negligent and careless in failing to properly inspect the Station and enforce the laws of the State of Rhode Island, which negligence and carelessness proximately caused the injuries and damages as hereinafter set forth.

1304. The Town is liable for the negligence of its agents, servants, and employees, and owed a special duty to each Plaintiff.

1305. The Town of West Warwick and Fire Inspector, Dennis Larocque, through its agents, servants, and employees were negligent and careless in one or more of the following ways, in that they:

a) Failed to enforce the building code and fire safety laws of the State of Rhode Island;

b) Failed to adequately inspect The Station;

c) Failed to conduct regular inspections of The Station;

d) Failed to discover and take action for the highly flammable and toxic materials existing on the premises of The Station, which materials should have been discovered by a reasonable inspection;

e) Failed to properly train personnel in fire safety laws, regulations and standards;

f) Failed to require sprinkler systems or other fire prevention devices at The Station;

g) Failed to employ adequate employees and/or personnel to adequately enforce the fire safety laws, regulations and standards;

h) Failed to appropriate adequate funds for the enforcement of fire safety laws, regulations and standards;

i) Knew or should have known of the use of pyrotechnics at The Station and failed to take action to prevent the same when it was unsafe to use pyrotechnics under the circumstances;

j) Failed to enforce Section 23-28-18-4 of the Rhode Island General Laws by failing to ensure that The Station, which provided performances to more than seventy-five (75) people, was free from combustible debris; and

k) Failed to require that The Station limit the number of patrons on the premises to a safe number of patrons.

1306. As a direct and proximate result thereof, the plaintiff, Michelle Malardo, suffered serious injuries to her body and person causing him to suffer severe mental and physical pain and distress.

1307. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1308. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1309. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1310. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

1311. The Fire Inspector, Dennis Larocque, is entitled to indemnity by the Town of West Warwick, pursuant to Section 45-15-16 of the Rhode Island General Laws.

1312. Pursuant to Section 45-15-5 of the Rhode Island General Laws, the Plaintiffs have provided the Town of West Warwick with a valid Notice of Presentment of Claim, and more than forty (40) days have passed since said notice was provided.

## CLAIMS AGAINST STATE OF RHODE ISLAND AND FIRE MARSHAL IRVING J. OWENS

### COUNT ONE HUNDRED EIGHTY

**By Michelle Malardo**
**(Negligence)**

1313. Paragraphs One (1) through One Thousand Three Hundred Twelve (1,312) are hereby incorporated as if fully set forth herein.

1314. The State of Rhode Island and its Fire Marshal, Irving J. Owens, are responsible for the inspection of commercial facilities in the Town of West Warwick and enforcement of the building and fire code laws of the State of Rhode Island.

1315. Pursuant to Section 23-28.2-4 of the Rhode Island General Laws, the State of Rhode Island and Fire Marshal, Irving J. Owens, owed a legal duty to the public in general and the patrons of The Station in particular to exercise reasonable care and due diligence by properly inspecting or causing proper inspections commercial properties in the Town of West Warwick, and to enforce and perform the duties required by the Fire Safety Code.

1316. The State and Fire Marshal were negligent and careless in failing to properly inspect the Station and enforce the laws of the State of Rhode Island, which negligence and carelessness proximately caused the injuries and damages as hereinafter set forth.

1317. The State and Fire Marshal are liable for the negligence of its agents, servants, and employees, and owed a special duty to each Plaintiff.

1318. The State and Fire Marshal, through their agents, servants, and employees were negligent and careless in one or more of the following ways, in that they:

a) Failed to enforce the building code and fire safety laws of the State of Rhode Island;

b) Failed to adequately inspect The Station;

c) Failed to conduct regular inspections of The Station;

d) Failed to discover and take action for the highly flammable and toxic materials existing on the premises of The Station, which materials should have been discovered by a reasonable inspection;

e) Failed to properly train personnel in fire safety laws, regulations and standards;

f) Failed to require sprinkler systems or other fire prevention devices at The Station;

g) Failed to employ adequate employees and/or personnel to adequately enforce the fire safety laws, regulations and standards;

h) Failed to appropriate adequate funds for the enforcement of fire safety laws, regulations and standards;

i) Knew or should have known of the use of pyrotechnics at The Station and failed to take action to prevent the same when it was unsafe to use pyrotechnics under the circumstances;

j) Failed to enforce Section 23-28-18-4 of the Rhode Island General Laws by failing to ensure that The Station, which provided performances to more than seventy-five (75) people, was free from combustible debris; and

k) Failed to require that The Station limit the number of patrons on the premises to a safe number of patrons.

1319. As a direct and proximate result thereof, the plaintiff, Michelle Malardo, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1320. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

1321. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1322. As a further direct and proximate result thereof, the plaintiff, Michelle Malardo, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1323. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

1324. The Fire Marshal, Irving J. Owens, is entitled to indemnity by the Town of West Warwick pursuant to Section 23-28.2-17 of the Rhode Island General Laws.

1325. Pursuant to Section 45-15-5 of the Rhode Island General Laws, the Plaintiffs have provided the Town of West Warwick with a valid Notice of Presentment of Claim, and more than forty (40) days have passed since said notice was provided.

**CLAIMS AGAINST AMERICAN FOAM CORPORATION**

**COUNT ONE HUNDRED EIGHTY-ONE**
**By Richard Sanetti**
**(Negligence)**

1326. Paragraphs One (1) through One Thousand Three Hundred Twenty-Five (1,325) are hereby incorporated as if fully set forth herein.

1327. The defendant American Foam Corporation, and/or its agents, servants, or employees, owed a legal duty to the Plaintiff and are liable and legally responsible for negligence which was a proximate cause of the injuries, and damages resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, andmarket the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

1328. As a direct and proximate result thereof, the plaintiff, Richard Sanetti, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

1329. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

1330. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, lost time from her employment, thereby suffering an economic loss in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

1331. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1332. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWO HUNDRED EIGHTY - TWO**
**By Patricia Sanetti**
**Loss of Consortium**
**(Negligence)**

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

1328. As a direct and proximate result thereof, the plaintiff, Richard Sanetti, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

1329. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

1330. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, lost time from her employment, thereby suffering an economic loss in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

1331. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1332. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWO HUNDRED EIGHTY - TWO**
**By Patricia Sanetti**
**Loss of Consortium**
**(Negligence)**

1333. Paragraphs One through One Thousand Three Hundred Thirty-Two (1,332) are hereby incorporated as if fully set forth herein.

1334. As a result of the use of the foam as aforesaid, the Plaintiff, Patricia Sanetti, wife of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**COUNT TWO HUNDRED EIGHTY-THREE**
**By Richard Sanetti**
**(Strict Products Liability)**

1335. Paragraphs One through One Thousand Three Hundred Thirty-Four (1,334) are hereby incorporated as if fully set forth herein.

1336. The aforesaid product was not altered or modified in any way by the users or any third party from the condition in which it was manufactured and sold.

1337. At all times relevant herein, said substance was expected to and did reach the users without substantial change in condition in which it was sold or manufactured.

1338. The defendant American Foam Corp. is a product seller.

1339. The defendant American Foam Corporation, and/or its agents, servants, or employees, are strictly liable and legally responsible for the injuries and damages resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

1340. As a direct and proximate result thereof, the plaintiff, Richard Sanetti, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

1341. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

1342. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

1343. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1344. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWO HUNDRED EIGHTY-FOUR**
**By Patricia Sanetti**
**Loss of Consortium**
**(Strict Products Liability)**

1345. Paragraphs One (1) through One Thousand Four Hundred Ninety-Three (1,493) are incorporated as if more fully set forth herein.

1346. As a result of the use of the foam as aforesaid, the Plaintiff, Patricia Sanetti, wife of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**CLAIMS AGAINST FOAMEX INTERNATIONAL**

**COUNT TWO HUNDRED EIGHTY-FIVE**
**by the Richard Sanetti**
**(Negligence)**

1347. Paragraphs One (1) through One Thousand Three Hundred Forty-Six (1,346) are hereby incorporated as if fully set forth herein.

1348. The defendant Foamex International, and/or its agents, servants, or employees, owed a legal duty to the Plaintiffs and are liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from the manufacturing, sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

1349. As a direct and proximate result thereof, the plaintiff, Richard Sanetti, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

1350. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

1351. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, lost time from his employment, thereby suffering an economic loss in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

1352. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1353. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWO HUNDRED EIGHTY-SIX**
**By Patricia Sanetti**
**Loss of Consortium**
**(Negligence)**

1354. Paragraphs One (1) through One Thousand Three Hundred Fifty-Three (1,353) are hereby incorporated as if fully set forth herein.

1355. As a result of the use, sale and manufacturing of the foam as aforesaid, the Plaintiff, Patricia Sanetti, wife of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**COUNT TWO HUNDRED EIGHTY-SEVEN**
**By Richard Sanetti**
**(Strict Products Liability)**

1356. Paragraphs One (1) through One Thousand Three Hundred Fifty-Six (1,356) are hereby incorporated as if fully set forth herein.

1357. The aforesaid product was not altered or modified in any way by the users or any third party from the condition in which it was manufactured and sold.

1358. At all times relevant herein, said substance was expected to and did reach the users without substantial change in condition in which it was sold or manufactured.

1359. The defendant Foamex International is a product seller.

1360. The defendant Foamex International, and/or its agents, servants, or employees, are strictly liable and legally responsible for the injuries, damages, and deaths resulting from the manufacturing, sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

1361. As a direct and proximate result thereof, the plaintiff, Richard Sanetti, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

1362. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

1363. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, lost time from his employment, thereby suffering an economic loss in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

1364. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1365. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT ONE HUNDRED EIGHTY-EIGHT**
**By Patricia Sanetti**
**Loss of Consortium**
**(Strict Products Liability)**

1366. Paragraphs One (1) through One Thousand Three Hundred Sixty-Five (1,365) are hereby incorporated as if fully set forth herein.

1367. As a result of the manufacturing, sale and use of the foam as aforesaid, the Plaintiff, Patricia Sanetti, wife of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**CLAIMS AGAINST BARRY H. WARNER**

**COUNT ONE HUNDRED EIGHTY-NINE**
**by Richard Sanetti**
**(Negligence)**

1368. Paragraphs One (1) through One Thousand Three Hundred Sixty-Seven (1,367) are hereby incorporated as if fully set forth herein.

1369. At all times relevant hereto, the defendant Barry H. Warner was employed by American Foam Corporation and was acting in the course and scope of his employment.

1370. Prior to February 20, 2003, the defendant Barry H. Warner sold the foam material to the defendants Jeffery Derderian, Michael Derderian, and/or DERCO, LLC, d/b/a The Station to be used as sound-proofing material at the former Station night-club and represented to said defendants that the foam could be safely and appropriately used as sound-proofing material when he knew or should have known that in fact the foam was highly flammable and toxic and could not be safely used for sound-proofing in a night-club where smoking and use of pyrotechnics was permitted.

1371. The defendant Barry H. Warner is liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) He placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) He represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) He failed to provide proper and appropriate warnings to product users;

d) He knew or should have known of the dangerous propensities of said foam yet sold it with reckless disregard for the safety of the public, including the plaintiff;

e) He breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose;

f) He breached its express warranty that said foam was safe and effective for use;

g) He provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

h) He failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

i) He failed to provide sound-proofing material that was fire resistant when he knew the intended use of the product;

j) He failed to warn that pyrotechnics could not be safely used in spaces where the foam insulation was installed; and

k) He failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

1372. As a direct and proximate result thereof, the plaintiff, Richard Sanetti, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

1373. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

1374. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

1375. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1376. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT ONE HUNDRED NINETY**
**By Patricia Sanetti**
**Loss of Consortium**
**(Negligence)**

1377. Paragraphs One (1) through One Thousand Three Hundred Seventy-Six (1,376) are hereby incorporated as if fully set forth herein.

1378. As a result of the use of the foam as aforesaid, the Plaintiff, Patricia Sanetti, wife of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**COUNT ONE HUNDRED NINETY-ONE**
**by Richard Sanetti**
**(Strict Products Liability)**

1379. Paragraphs One (1) through One Thousand Three Hundred Seventy-Eight (1,378) are hereby incorporated as if fully set forth herein.

1380. At all times relevant hereto, the defendant Barry H. Warner was employed by American Foam Corporation and was acting in the course and scope of his employment.

1381. Prior to February 20, 2003, the defendant Barry H. Warner sold the foam material to the defendants Jeffery Derderian, Michael Derderian, and/or DERCO, d/b/a/ The Station, to be used as sound-proofing material at the former Station night-club and represented to said defendants that the foam could be safely and appropriately used as sound-proofing material when he knew or should have known that in fact the foam was highly flammable and toxic and could not be safely used for sound-proofing in a night-club where smoking and use of pyrotechnics was permitted.

1382. The defendant Barry H. Warner is strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) He placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) He represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) He failed to provide proper and appropriate warnings to product users;

d) He knew or should have known of the dangerous propensities of said foam yet sold it with reckless disregard for the safety of the public, including the plaintiff's decedent;

e) He breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose;

f) He breached its express warranty that said foam was safe and effective for use;

g) He provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

h) He failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

i) He failed to provide sound-proofing material that was fire resistant when he knew the intended use of the product;

j) He failed to warn that pyrotechnics could not be safely used in spaces where the foam insulation was installed; and

k) He failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

1383. As a direct and proximate result thereof, the plaintiff, Richard Sanetti, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

1384. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

1385. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

1386. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1387. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the extent are not yet known.

**COUNT ONE HUNDRED NINETY-TWO**
**By Patricia Sanetti**
**Loss of Consortium**
**(Strict Products Liability)**

1388. Paragraphs One (1) through One Thousand Three Hundred Eighty-Seven (1,387) are hereby incorporated as if fully set forth herein.

1389. As a result of the use of the foam as aforesaid, the Plaintiff, Patricia Sanetti, wife of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**CLAIMS AGAINST JEFFERY DERDERIAN, MICHAEL DERDERIAN AND DERCO, LLC, d/b/a THE STATION**

**COUNT ONE HUNDRED NINETY-THREE**
**by Richard Sanetti**
**(Negligence)**

1390. Paragraphs One (1) through One Thousand Three Hundred Eighty-Nine (1,389) are hereby incorporated as if fully set forth herein.

1391. The defendants Jeffrey Derderian, Michael Derderian, and/or DERCO, LLC, d/b/a The Station and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to Richard Sanetti in one or more of the following respects, in that they:

a) Failed to properly manage, control, supervise and/or inspect The Station night-club prior to and during the Great White concert;

b) Installed highly flammable and toxic foam material around the stage of the night-club and failed to ensure that the sound-proofing material was fire resistant, in violation of R.I. Gen. Laws Section 23.28.6-15;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to install, maintain, or inspect proper emergency lighting and exit signs that were operable in the event of fire or power outage, in violation of R.I. Gen. Laws Section 23-28.6-13;

f) Failed to adequately inspect The Station for safety hazards;

g) Failed to install sprinklers or other fire prevention apparatus at The Station;

h) Failed to provide adequate exits and failed to inform patrons of The Station of the location of fire exits or require personnel present to do so;

i) Allowed unsafe numbers of persons on the premises during the Great White performance;

j) Allowed The Station to become overcrowded with patrons during performances;

k) Caused or allowed the parking of vehicles in an area around The Station structure so as to impede safe egress in the event of a fire;

l) Caused or allowed uneven floor surfaces in The Station, which constituted a tripping hazard;

m) Knew or should have known of the dangerous conditions at The Station and failed to remedy those conditions; and

n) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

1392. As a direct and proximate result thereof, the plaintiff, Richard Sanetti, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

1393. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

1394. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

1395. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1396. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT ONE HUNDRED NINETY-FOUR**
**By Patricia Sanetti**
**Loss of Consortium**
**(Negligence)**

1397. Paragraphs One (1) through One Thousand Three Hundred Ninety-Six (1,396) are hereby incorporated as if fully set forth herein.

1398. As a result of the use of the foam as aforesaid, the Plaintiff, Patricia Sanetti, wife of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**CLAIMS AGAINST MANIC MUSIC MANAGEMENT, INC.**

**COUNT ONE HUNDRED NINETY-FIVE**
**by Richard Sanetti**
**(Negligence)**

1399. Paragraphs One (1) through One Thousand Three Hundred Ninety-Eight (1,398) are hereby incorporated as if fully set forth herein.

1400. The defendant Manic Music Management, Inc. and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to the plaintiff Richard Sanetti in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station; and

f) Knew or should have known that the band Great White would use pyrotechnics during its concert and yet failed to take reasonable and necessary precautions.

1401. As a direct and proximate result thereof, the plaintiff, Richard Sanetti, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

1402. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

1403. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

1404. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1405. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT ONE HUNDRED NINETY SIX**
**By Patricia Sanetti**
**Loss of Consortium**
**(Negligence)**

1406. Paragraphs One (1) through One Thousand Four Hundred Five (1,405) are hereby incorporated as if fully set forth herein.

1407. As a result of the use of the foam as aforesaid, the Plaintiff, Patricia Sanetti, wife of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**CLAIMS AGAINST JACK RUSSELL, MARK KENDALL, DAVID FILICE ERIC POWERS, d/b/a GREAT WHITE**

**COUNT ONE HUNDRED NINETY-SEVEN**
**by Richard Sanetti**
**(Negligence)**

1408. Paragraphs One (1) through One Thousand Four Hundred Seven (1,407) are hereby incorporated as if fully set forth herein.

1409. The defendants Jack Russell, Mark Kendall, David Filice, Eric Powers, and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to Eric Malardo in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station; and

f) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions.

1410. As a direct and proximate result thereof, the plaintiff, Richard Sanetti, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

1411. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

1412. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

1413. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1414. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT ONE HUNDRED NINETY- EIGHT**
**By Patricia Sanetti**
**Loss of Consortium**
**(Negligence)**

1415. Paragraphs One (1) through One Thousand Four Hundred Fourteen (1,414) are hereby incorporated as if fully set forth herein.

1416. As a result of the use of the foam as aforesaid, the Plaintiff, Patricia Sanetti, wife of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**CLAIMS AGAINST DANIEL BICHELE**

**COUNT ONE HUNDRED NINETY-NINE**
**by Richard Sanetti**
**(Negligence)**

1417. Paragraphs One (1) through One Thousand Four Hundred Sixteen (1,416) are hereby incorporated as if fully set forth herein.

1418. The defendant Daniel Bichele and/or his agents, servants, or employees, is liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to Richard Sanetti in one or more of the following respects, in that he or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Negligently activated dangerous pyrotechnic devices in an overcrowded night-club where it could easily ignite toxic flammable sound-proofing insulation on the walls and ceiling;

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station; and

g) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics.

1419. As a direct and proximate result thereof, the plaintiff, Richard Sanetti, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

1420. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

1421. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

1422. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1423. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWO HUNDRED**
**By Patricia Sanetti**
**Loss of Consortium**
**(Negligence)**

1424. Paragraphs One (1) through One Thousand Four Hundred Twenty-Three (1,423) are hereby incorporated as if fully set forth herein.

1425. As a result of the use of the foam as aforesaid, the Plaintiff, Patricia Sanetti, wife of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**CLAIMS AGAINST PAUL WOOLNOUGH**
**AND KNIGHT RECORDS, INC.**

**COUNT TWO HUNDRED ONE**
**by Richard Sanetti**
**(Negligence)**

1426. Paragraphs One (1) through One Thousand Four Hundred Twenty-Five (1,425) are hereby incorporated as if fully set forth herein.

1427. The defendants Paul Woolnough and/or Knight Records, Inc. and/or his or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to Richard Sanetti in one or more of the following respects, in that he or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Negligently activated dangerous pyrotechnic devices in an overcrowded night-club where it could easily ignite toxic flammable sound-proofing insulation on the walls and ceiling;

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

g) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions; and

h) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics.

1428. As a direct and proximate result thereof, the plaintiff, Richard Sanetti, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

1429. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

1430. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

1431. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1432. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWO HUNDRED TWO**
**By Patricia Sanetti**
**Loss of Consortium**
**(Negligence)**

1433. Paragraphs One (1) through One Thousand Four Hundred Thirty-Two (1,432) are hereby incorporated as if fully set forth herein.

1434. As a result of the aforesaid negligence, the Plaintiff, Patricia Sanetti, wife of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

## CLAIMS AGAINST ANHEUSER-BUSCH, INC.

### COUNT TWO HUNDRED THREE
**by Richard Sanetti**
**(Negligence)**

1435. Paragraphs One (1) through One Thousand Four Hundred Thirty-Four (1,434) are hereby incorporated as if fully set forth herein.

1436. The defendant Anheuser-Busch, Inc. stood to profit, monetarily or through increased brand awareness, from its sponsorship of and marketing efforts at the Great White concert at The Station on February 20, 2003.

1437. The defendant Anheuser-Busch, Inc., by and through its marketing and promotional activities, including distribution of specially-prepared beer and tickets to the Great White concert, caused or contributed to the dangerous overcrowding at The Station on February 20, 2003.

1438. The defendant Anheuser-Busch, Inc provided funding for promotions or paid for promotions for the event, thereby inducing patrons to attend the event.

1439. The defendant Anheuser-Busch, Inc. and/or its agents, servants, or employees, owed a legal duty to the Plaintiffs and is liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting death of the plaintiff decedent in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities;

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

g) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions;

h) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics; and

i) Attached its name to the event, thereby inducing patrons to attend the event because of the credibility given to the event by use of the name Anheuser-Busch, Inc.

1440. As a direct and proximate result thereof, the plaintiff, Richard Sanetti, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

1441. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

1442. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

1443. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1444. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWO HUNDRED FOUR**
**By Patricia Sanetti**
**Loss of Consortium**
**(Negligence)**

1445. Paragraphs One (1) through One Thousand Four Hundred Forty-Four (1,444) are hereby incorporated as if fully set forth herein.

1446. As a result of the aforesaid negligence, the Plaintiff, Patricia Sanetti, wife of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**CLAIMS AGAINST MCLAUGHLIN & MORAN, INC.**

**COUNT TWO HUNDRED FIVE**
**By Richard Sanetti**
**(Negligence)**

1447. Paragraphs One (1) through One Thousand Four Hundred Forty-Six (1,446) are hereby incorporated as if fully set forth herein.

1448. The defendant McLaughlin & Moran, Inc. stood to profit, monetarily or through increased brand awareness, from its sponsorship of and marketing efforts at the Great White concert at The Station on February 20, 2003.

1449. The defendant McLaughlin & Moran, Inc., by and through its marketing and promotional activities, including distribution of specially-prepared beer and promotional tickets to the Great White concert, caused or contributed to the dangerous overcrowding at The Station on February 20, 2003.

1450. The defendant, McLaughlin & Moran, Inc provided funding for promotions or paid for promotions for the event, thereby inducing patrons to attend the event.

1451. The defendant McLaughlin & Moran, Inc. and/or its agents, servants, or employees, owed a legal duty to the Plaintiffs and is liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to Richard Sanetti in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities;

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

g) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions;

h) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics; and

i) Attached its name to the event, thereby inducing patrons to attend the event because of the credibility given to the event by use of the name McLaughlin & Moran, Inc.

1452. As a direct and proximate result thereof, the plaintiff, Richard Sanetti, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

1453. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

1454. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

1455. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1456. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWO HUNDRED SIX**
**By Patricia Sanetti**
**Loss of Consortium**
**(Negligence)**

1457. Paragraphs One (1) through One Thousand Four Hundred Fifty-Six (1,456) are hereby incorporated as if fully set forth herein.

1458. As a result of the aforesaid negligence, the Plaintiff, Patricia Sanetti, wife of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

## CLAIMS AGAINST CLEAR CHANNEL COMMUNICATIONS, INC.

### COUNT TWO HUNDRED SEVEN
**by Richard Sanetti**
**(Negligence)**

1459. Paragraphs One (1) through One Thousand Four Hundred Fifty-Eight (1,458) are hereby incorporated as if fully set forth herein.

1460. The defendant Clear Channel Communications, Inc., d/b/a WHJY-FM stood to profit, monetarily or through increased brand awareness, from its sponsorship of and marketing efforts at the Great White concert at The Station on February 20, 2003.

1461. The defendant Clear Channel Communications, Inc., d/b/a WHJY-FM by and through their marketing and promotional activities, including distribution of promotional tickets to the Great White concert, caused or contributed to the dangerous overcrowding at The Station on February 20, 2003.

1462. The defendant, Clear Channel Communications, Inc., d/b/a WHJY-FM provided funding for promotions or paid for promotions for the event, thereby inducing patrons to attend the event.

1463. The defendant Clear Channel Communications, Inc., d/b/a WHJY-FM and/or their agents, servants, or employees, owed a legal duty and are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to Richard Sanetti in one or more of the following respects, in that they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities;

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

g) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions;

h) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics; and

i) Attached its name to the event, thereby inducing patrons to attend the event because of the credibility given to the event by use of the name Clear Channel Communications, Inc., d/b/a WHJY-FM.

1464. As a direct and proximate result thereof, the plaintiff, Richard Sanetti, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

1465. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

1466. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

1467. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1468. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWO HUNDRED EIGHT**
**By Patricia Sanetti**
**Loss of Consortium**
**(Negligence)**

1469. Paragraphs One (1) through One Thousand Four Hundred Sixty-Eight (1,468) are hereby incorporated as if fully set forth herein.

1470. As a result of the use of the foam as aforesaid, the Plaintiff, Patricia Sanetti, wife of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

## CLAIMS AGAINST LUNA TECH, INC. AND LUNA TECH PYROTECHNICS, GMBH

## COUNT TWO HUNDRED NINE
**by Richard Sanetti**
**(Negligence)**

1471. Paragraphs One (1) through One Thousand Four Hundred Seventy (1,470) are hereby incorporated as if fully set forth herein.

1472. The defendants Luna Tech, Inc. and Luna Tech Pyrotechnic, GMBH, and/or their agents, servants, or employees, owed a legal duty to the Plaintiffs and are liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from the pyrotechnics product, in one or more of the following respects, in that they:

a) Placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the devices were highly flammable and could not be safely used by bands in night-clubs;

b) Sold said devices to bands and represented that said devices were safe for their intended uses;

c) Failed to provide proper and appropriate warnings to product users;

d) Failed to properly design, manufacture, assemble, test, label, and market the devices;

e) Failed to warn that pyrotechnics could not be safely used in night-clubs or similar spaces where flammable foam insulation or other unsuitable construction material was installed;

f) Said substance was defective and unreasonably dangerous and could not be used without unreasonable risk of injury to the decedent;

g) The warnings and instructions which were given were inadequate and failed to provide sufficient notice to the decedent of the dangerous propensities of said product;

h) The Defendants misrepresented to the decedent and the general public that the substance in question was safe for use by the public;

i) The Defendants failed to disclose to the decedent and the general public the dangerous propensities of said substance;

j) The Defendants were negligent in that they failed to properly and adequately test said product prior to marketing it in that they designed said product in a defective manner;

k) The Defendants were negligent in that they knew or should have known of the dangerous characteristics of said product, yet continued to manufacture and distribute said product;

l) The Defendants were negligent in that they used improper materials in the construction of said product; and

m) The Defendants knew or should have known of the dangerous characteristics of said product, and yet decided to market and continued to market it.

1473. As a direct and proximate result thereof, the plaintiff, Richard Sanetti, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

1474. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

1475. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

1476. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1477. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWO HUNDRED TEN**
**By Patricia Sanetti**
**Loss of Consortium**
**(Negligence)**

1478. Paragraphs One (1) through One Thousand Four Hundred Seventy-Seven (1,477) are hereby incorporated as if fully set forth herein.

1479. As a result of the aforesaid negligence, the Plaintiff, Patricia Sanetti, wife of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**COUNT TWO HUNDRED ELEVEN**
**by Richard Sanetti**
**(Strict Liability)**

1480. Paragraphs One (1) through One Thousand Four Hundred Seventy-Nine (1,479) are hereby incorporated as if fully set forth herein.

1481. The aforesaid product was not altered or modified in any way by the users or any third party from the condition in which it was manufactured and sold.

1482. At all times relevant herein, said substance was expected to and did reach the users without substantial change in condition in which it was sold or manufactured.

1483. The defendants, Luna Tech, Inc. and Luna Tech Pyrotechnic, GMBH is a product seller.

1484. The defendants Luna Tech, Inc. and Luna Tech Pyrotechnic, GMBH, and/or their agents, servants, or employees, are strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale, use, and manufacturing of the pyrotechnics product, in one or more of the following respects, in that they:

a) Placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the devices were highly flammable and could not be safely used by bands in night-clubs;

b) Sold said devices to bands and represented that said devices were safe for their intended uses;

c) Failed to provide proper and appropriate warnings to product users;

d) Failed to properly design, manufacture, assemble, test, label, and market the devices;

e) Failed to warn that pyrotechnics could not be safely used in night-clubs or similar spaces where flammable foam insulation or other unsuitable construction material was installed;

f) Said substance was defective and unreasonably dangerous and could not be used without unreasonable risk of injury to the decedent;

g) The warnings and instructions which were given were inadequate and failed to provide sufficient notice to the decedent of the dangerous propensities of said product;

h) The Defendants misrepresented to the decedent and the general public that the substance in question was safe for use by the public;

i) The Defendants failed to disclose to the decedent and the general public the dangerous propensities of said substance;

j) Defendants were negligent in that they failed to properly and adequately test said product prior to marketing it in that they designed said product in a defective manner;

k) The Defendants were negligent in that they knew or should have known of the dangerous characteristics of said product, yet continued to manufacture and distribute said product;

l) The Defendants were negligent in that they used improper materials in the construction of said product; and

m) The Defendants knew or should have known of the dangerous characteristics of said product, and yet decided to market and continued to market it.

1485. As a direct and proximate result thereof, the plaintiff, Richard Sanetti, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

1486. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1487. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1488. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1489. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWO HUNDRED TWELVE**
**By Patricia Sanetti**
**Loss of Consortium**
**(Strict Liability)**

1490. Paragraphs One (1) through One Thousand Four Hundred Eighty-Nine (1,489) are hereby incorporated as if fully set forth herein.

1491. As a result of the use of the foam as aforesaid, the Plaintiff, Patricia Sanetti, wife of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**CLAIMS AGAINST JOINT VENTURE LIABILITY AS TO JEFFREY DERDERIAN, MICHAEL DERDERIAN, AND DERCO LLC. D/B/A THE STATION, MANIC MUSIC MANAGEMENT, INC., JACK RUSSELL, MARK KENDALL, DAVID FILICE, ERIC POWERS, DANIEL BICHIELE, PAUL WOOLNOUGH, KNIGHT RECORDS, INC., ANHEUSER-BUSCH, INC., MCLAUGHLIN & MORAN, INC., CLEAR CHANNEL COMMUNICATIONS, INC., D/B/A WHJY-FM, MOTIVA ENTERPRISES, LLC AND SHELL OIL COMPANY AND THE TOWN OF WEST WARWICK AND STATE OF RHODE ISLAND**

**COUNT TWO HUNDRED THIRTEEN**
**by Richard Sanetti**
**(Negligence)**

1492. Paragraphs One (1) through One Thousand Four Hundred Ninety-Two (1,492) are incorporated as if more fully set forth herein.

1493. Prior to the Great White concert that occurred on February 20, 2003, the defendants Jeffrey Derderian, Michael Derderian, and DERCO LLC d/b/a The Station, Manic Music Management, Inc., Jack Russell, Mark Kendall, David Filice, Eric Powers, Daniel Bichiele, Paul Woolnough, Knight Records, Inc., Anheuser-Busch, Inc., McLaughlin & Moran, Inc., Clear Channel Communications, Inc., d/b/a WHJY-FM, Motiva Enterprises, LLC and Shell Oil Company and The Town of West Warwick and State of Rhode Island., entered into an express or implied agreement for the common purpose and design of planning, endorsing, sponsoring, promoting, and/or advertising the concert.

1494. The defendants joined and participated in this joint venture for the purpose of pursuing their common business interests and for economic gain.

1495. Each of the participating defendants had a right to voice concerns regarding the event and each controlled certain aspects of the planning, endorsement, sponsorship, promotion, and/or advertising relating to the Great White concert, including but not limited to the selection and inspection of the venue, The Station.

1496. The defendants, and/or their agents, servants, employees and/or contractors acting within the course and scope of their employment or agency, owed a legal duty to the Plaintiffs and are liable and legally responsible for the injuries, damages, and deaths resulting from negligent, careless and/or reckless acts or omissions in planning, endorsing, sponsoring, promoting and/or advertising the Great White concert that occurred on February 20, 2003, in one or more of the following respects:

a) Failed to properly manage, control, supervise and/or inspect The Station night-club prior to and during the Great White concert;

b) Installed or permitted to be installed highly flammable and toxic foam material around the stage of the night-club and failed to ensure that the sound-proofing material was fire resistant, in violation of R.I. Gen. Laws Section 23.28.6-15;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to inspect proper emergency lighting and exit signs that were operable in the event of fire or power outage, in violation of R.I. Gen. Laws Section 23-28.6-13;

f) Failed to adequately inspect The Station for safety hazards, or negligently performed same;

g) Failed to inspect for sprinklers or other fire prevention equipment and apparatus at The Station;

h) Failed to provide adequate exits and failed to inform patrons of The Station of the location of fire exits or require personnel present to do so;

i) Allowed unsafe numbers of persons on the premises during the Great White performance;

j) Allowed The Station to become overcrowded with patrons during performances;

k) Caused or allowed the parking of vehicles in an area around The Station structure so as to impede safe egress in the event of a fire;

l) Caused or allowed uneven floor surfaces in The Station which constituted a tripping hazard;

m) Knew or should have known of the dangerous conditions at The Station and failed to remedy those conditions;

n) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station; and

o) Were otherwise negligent in their selection and/or inspection of the venue for the Great White concert, The Station.

1497. As a direct and proximate result thereof, the plaintiff, Richard Sanetti, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

1498. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1499. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

1500. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1501. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWO HUNDRED FOURTEEN**
**By Patricia Sanetti**
**Loss of Consortium**
**(Negligence)**

1502. Paragraph One (1) through One Thousand Five Hundred One (1,501) are incorporated as if more fully set forth herein.

1503. As a result of the use of the foam as aforesaid, the Plaintiff, Patricia Sanetti, wife of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**CLAIMS AGAINST SHELL OIL CORPORATION**
**AND MOTIVA ENTERPRISES, LLC**

## COUNT TWO HUNDRED FIFTEEN
**by Richard Sanetti**
**(Negligence)**

1504. Paragraphs One (1) through One Thousand Five Hundred Three (1,503)are hereby incorporated as more fully set forth herein.

1505. Upon information and belief, the defendant, Shell Oil Company, d/b/a Motiva Enterprises, LLC, was the owner/lessor of certain property located at 7380 Post Road, North Kingstown, Rhode Island.

1504. Upon information and belief, defendant DERCO LLC was the manager and lessee of the aforesaid property owned by, the defendant, Shell Oil Company, d/b/a Motiva Enterprises, LLC.

1505. Upon information and belief, the defendant Shell Oil Company dominated, controlled and/or managed the practices, policies and finances of Motiva, LLC and the gas station operation at the 7380 Post Road facility, including but not limited to exercising joint control over the management, inventory, marketing, promotions, and pricing policies

1506. The defendants Shell Oil Company and Motiva Enterprises, LLC owed a legal duty to patrons of The Station because they engaged in the promotion of the Great White performance at The Station by distributing certain tickets in return for certain purchases of its merchandise, which promotion was expressly or impliedly approved by Shell Oil Company and its subsidiary Motiva Enterprises, LLC in negligent disregard for the safety of the anticipated patrons at the performance.

1507. The defendants Shell Oil Company and Motiva Enterprises, LLC endorsed, sponsored, promoted, and/or advertised the Great White concert and stood to profit monetarily these activities and marketing efforts.

1508. Upon information and belief, the defendants Shell Oil Company and Motiva Enterprises, LLC expressly and/or impliedly represented and warranted to the public through its marketing, promotional activities and ticket sales that the venue selected for the show was reasonably safe and would not subject patrons to an unreasonable risk of serious injury or death.

1509. The defendants, Shell Oil Company and Motiva Enterprises, LLC, knew or should have known that, if the venue for the performance did not have adequate fire protection and suppression equipment, that patrons would be subjected to a foreseeable, unreasonable risk of injury or even death.

1510. The defendants, Shell Oil Company and Motiva Enterprises, LLC, knew or should have known that members of the public, including the Injured Plaintiff, were relying on it to exercise proper care, skill and diligence in the review and selection of a safe venue for concerts for which it sold tickets.

1511. The defendants Shell Oil Company and Motiva Enterprises, LLC were negligent and careless in the manner in which they engaged in the promotion of the aforesaid performance, which negligence and carelessness caused the injuries and damages as hereinafter set forth.

a) The defendants Shell Oil Company and Motiva Enterprises, LLC through its agents, servants, employees or contractors acting within the course and scope of their employment or agency, owed a legal duty to the Plaintiff and is liable and legally responsible for negligence in causing the death of the Plaintiff's Decedent in one or more of the following respects, in that it or they:

b) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

c) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the nightclub;

d) Failed to obtain or require the necessary permits for the use of pyrotechnics at the nightclub in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Allowed the use of pyrotechnics at the nightclub by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

f) Contributed to dangerous overcrowding by and through their promotional activities;

g) Failed to properly and adequately review, inspect and approve The Station as a safe venue for members of the public;

h) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

i) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions;

j) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics; and

k) Attached its name to the event, thereby inducing patrons to attend the event because of the credibility given to the event by use of the name Shell Oil.

1512. As a direct and proximate result thereof, the plaintiff, Richard Sanetti, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

1513. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

1514. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

1515. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1516. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWO HUNDRED SIXTEEN**
**By Patricia Sanetti**
**Loss of Consortium**
**(Negligence)**

1517. Paragraphs One (1) through One Thousand Five-Hundred Sixteen (1,516) are incorporated as if more fully set forth herein.

1518. As a result of the use of the aforesaid negligence, the Plaintiff, Patricia Sanetti, wife of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

## CLAIMS AGAINST TOWN OF WEST WARWICK AND FIRE INSPECTOR DENNIS LAROCQUE

## COUNT TWO HUNDRED SEVENTEEN
**By Richard Sanetti**
**(Negligence)**

1519. Paragraphs One (1) through One Thousand Five Hundred Eighteen (1,518) are hereby incorporated as more fully set forth herein.

1520. The Town of West Warwick and its Fire Inspector, Dennis Larocque, are responsible for the inspection of commercial facilities in the Town of West Warwick and enforcement of the building and fire code laws of the State of Rhode Island.

1521. The Town of West Warwick and Fire Inspector, Dennis Larocque, owed a legal duty to the public in general and the patrons of The Station in particular to exercise reasonable care and due diligence by properly inspecting commercial properties in the Town of West Warwick.

1522. The Town of West Warwick and Fire Inspector, Dennis Larocque, were negligent and careless in failing to properly inspect the Station and enforce the laws of the State of Rhode Island, which negligence and carelessness proximately caused the injuries and damages as hereinafter set forth.

1523. The Town is liable for the negligence of its agents, servants, and employees, and owed a special duty to each Plaintiff.

1524. The Town of West Warwick and Fire Inspector, Dennis Larocque, through its agents, servants, and employees were negligent and careless in one or more of the following ways, in that they:

a) Failed to enforce the building code and fire safety laws of the State of Rhode Island;

b) Failed to adequately inspect The Station;

c) Failed to conduct regular inspections of The Station;

d) Failed to discover and take action for the highly flammable and toxic materials existing on the premises of The Station, which materials should have been discovered by a reasonable inspection;

e) Failed to properly train personnel in fire safety laws, regulations and standards;

f) Failed to require sprinkler systems or other fire prevention devices at The Station;

g) Failed to employ adequate employees and/or personnel to adequately enforce the fire safety laws, regulations and standards;

h) Failed to appropriate adequate funds for the enforcement of fire safety laws, regulations and standards;

i) Knew or should have known of the use of pyrotechnics at The Station and failed to take action to prevent the same when it was unsafe to use pyrotechnics under the circumstances;

j) Failed to enforce Section 23-28-18-4 of the Rhode Island General Laws by failing to ensure that The Station, which provided performances to more than seventy-five (75) people, was free from combustible debris; and

k) Failed to require that The Station limit the number of patrons on the premises to a safe number of patrons.

1525. As a direct and proximate result thereof, the plaintiff, Richard Sanetti, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

1526. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

1527. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

1528. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1529. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

1530. The Fire Inspector, Dennis Larocque, is entitled to indemnity by the Town of West Warwick, pursuant to Section 45-15-16 of the Rhode Island General Laws.

1531. Pursuant to Section 45-15-5 of the Rhode Island General Laws, the Plaintiffs have provided the Town of West Warwick with a valid Notice of Presentment of Claim, and more than forty (40) days have passed since said notice was provided.

**COUNT TWO HUNDRED EIGHTEEN**
**By Patricia Sanetti**
**Loss of Consortium**
**(Negligence)**

1532. Paragraphs One (1) through One Thousand Five Hundred Thirty-One (1,531) are incorporated as if more fully set forth herein.

1533. As a result of the aforesaid negligence, the Plaintiff, Patricia Sanetti, wife of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**CLAIMS AGAINST STATE OF RHODE ISLAND AND FIRE MARSHAL, IRVING J. OWENS**

**COUNT TWO HUNDRED NINETEEN**
**By Richard Sanetti**
**(Negligence)**

1534. Paragraphs One (1) through One Thousand Five Hundred Thirty-Three (1,533) are hereby incorporated as more fully set forth herein.

1535. The State of Rhode Island and its Fire Marshal, Irving J. Owens, are responsible for the inspection of commercial facilities in the Town of West Warwick and enforcement of the building and fire code laws of the State of Rhode Island.

1536. Pursuant to Section 23-28.2-4 of the Rhode Island General Laws, the State of Rhode Island and Fire Marshal, Irving J. Owens, owed a legal duty to the public in general and the patrons of The Station in particular to exercise reasonable care and due diligence by properly inspecting or causing proper inspections commercial properties in the Town of West Warwick, and to enforce and perform the duties required by the Fire Safety Code.

1537. The State and Fire Marshal were negligent and careless in failing to properly inspect the Station and enforce the laws of the State of Rhode Island, which negligence and carelessness proximately caused the injuries and damages as hereinafter set forth.

1538. The State and Fire Marshal are liable for the negligence of its agents, servants, and employees, and owed a special duty to each Plaintiff.

1539. The State and Fire Marshal, through their agents, servants, and employees were negligent and careless in one or more of the following ways, in that they:

a) Failed to enforce the building code and fire safety laws of the State of Rhode Island;

b) Failed to adequately inspect The Station;

c) Failed to conduct regular inspections of The Station;

d) Failed to discover and take action for the highly flammable and toxic materials existing on the premises of The Station, which materials should have been discovered by a reasonable inspection;

e) Failed to properly train personnel in fire safety laws, regulations and standards;

f) Failed to require sprinkler systems or other fire prevention devices at The Station;

g) Failed to employ adequate employees and/or personnel to adequately enforce the fire safety laws, regulations and standards;

h) Failed to appropriate adequate funds for the enforcement of fire safety laws, regulations and standards;

i) Knew or should have known of the use of pyrotechnics at The Station and failed to take action to prevent the same when it was unsafe to use pyrotechnics under the circumstances;

j) Failed to enforce Section 23-28-18-4 of the Rhode Island General Laws by failing to ensure that The Station, which provided performances to more than seventy-five (75) people, was free from combustible debris; and

k) Failed to require that The Station limit the number of patrons on the premises to a safe number of patrons.

1540. As a direct and proximate result thereof, the plaintiff, Richard Sanetti, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

1541. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

1542. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, lost time from his employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to his financial loss.

1543. As a further direct and proximate result thereof, the plaintiff, Richard Sanetti, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1544. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

1545. The Fire Marshal, Irving J. Owens, is entitled to indemnity by the Town of West Warwick pursuant to Section 23-28.2-17 of the Rhode Island General Laws.

1546. Pursuant to Section 45-15-5 of the Rhode Island General Laws, the Plaintiffs have provided the Town of West Warwick with a valid Notice of Presentment of Claim, and more than forty (40) days have passed since said notice was provided.

**COUNT TWO HUNDRED TWENTY**
**By Patricia Sanetti**
**Loss of Consortium**
**(Negligence)**

1547. Paragraphs One (1) through One Thousand Five Hundred Forty-Six (1,546) are hereby incorporated as if more fully set forth herein.

1548. As a result of the aforesaid negligence, the Plaintiff, Patricia Sanetti, wife of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**CLAIMS AGAINST AMERICAN FOAM CORPORATION**

**COUNT TWO HUNDRED TWENTY-ONE**
**By Michelle Spence**
**(Negligence)**

1549. Paragraphs One (1) through One Thousand Five Hundred Fourty-Eight (1,548) are incorporated as if more fully set forth herein.

1550. The defendant American Foam Corporation, and/or its agents, servants, or employees, owed a legal duty to the Plaintiff and are liable and legally responsible for negligence which was a proximate cause of the injuries, and damages resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

1551. As a direct and proximate result thereof, the plaintiff, Michelle Spence, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1552. As a further direct and proximate result thereof, the plaintiff, Michelle Spence has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1553. As a further direct and proximate result thereof, the plaintiff, Michelle Spence, lost time from her employment, thereby suffering an economic loss in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1554. As a further direct and proximate result thereof, the plaintiff, Michelle Spence, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1555. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWO HUNDRED TWENTY-TWO**
**By Michelle Spence as Mother**
**and Next Friend of Hailey Spence**
**Loss of Consortium**
**(Negligence)**

1556. Paragraphs One (1) through One Thousand Five Hundred Fifty-Five (1,555)are incorporated as if more fully set forth herein.

1557. As a result of the use of the foam as aforesaid, the Plaintiff, Hailey Spence, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**COUNT TWO HUNDRED TWENTY-THREE**
**by Michelle Spence**
**(Strict Products Liability)**

1558. Paragraphs One (1) through One Thousand Five Hundred Fifty-Four (1,557)are incorporated as if more fully set forth herein.

1559. The aforesaid product was not altered or modified in any way by the users or any third party from the condition in which it was manufactured and sold.

1560. At all times relevant herein, said substance was expected to and did reach the users without substantial change in condition in which it was sold or manufactured.

1561. The defendant American Foam Corp. is a product seller.

1562. The defendant American Foam Corporation, and/or its agents, servants, or employees, are strictly liable and legally responsible for the injuries and damages resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

1563. As a direct and proximate result thereof, the plaintiff, Michelle Spence, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1564. As a further direct and proximate result thereof, the plaintiff, Michelle Spence has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1565. As a further direct and proximate result thereof, the plaintiff, Michelle Spence, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1566. As a further direct and proximate result thereof, the plaintiff, Michelle Spence, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1567. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWO HUNDRED TWENTY-FOUR**
**By Michelle Spence, as Mother**
**and Next Friend to Hailey Spence**
**Loss of Consortium**
**(Strict Products Liability)**

1568. Paragraphs One (1)through One Thousand Five Hundred Sixty-Seven(1,567) are incorporated as if more fully set forth herein.

1569. As a result of the use of the foam as aforesaid, the Plaintiff, Hailey Spence, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**CLAIMS AGAINST FOAMEX INTERNATIONAL**

**COUNT TWO HUNDRED TWENTY-FIVE**
**By Michelle Spence**
**(Negligence)**

1570. Paragraphs One (1) through One Thousand Five Hundred Sixty-Nine (1,569) are incorporated as if more fully set forth herein.

1571. The defendant Foamex International, and/or its agents, servants, or employees, owed a legal duty to the Plaintiffs and are liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from sale, use and manufacture of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

1572. As a direct and proximate result thereof, the plaintiff, Michelle Spence, suffered serious injuries to her body and person causing him to suffer severe mental and physical pain and distress.

1573. As a further direct and proximate result thereof, the plaintiff, Michelle Spence has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1574. As a further direct and proximate result thereof, the plaintiff, Michelle Spence, lost time from her employment, thereby suffering an economic loss in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1575. As a further direct and proximate result thereof, the plaintiff, Michelle Spence, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1576. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWO HUNDRED TWENTY-SIX**
**By Michelle Spence, as Mother**
**and Next Friend to Hailey Spence**
**Loss of Consortium**
**(Negligence)**

1577. Paragraphs (1) One through One Thousand Five Hundred Seventy-Six (1,576) are incorporated as if more fully set forth herein.

1578. As a result of the use of the foam as aforesaid, the Plaintiff, Hailey Spence, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

## COUNT TWO HUNDRED TWENTY-SEVEN
**By Michelle Spence**
**(Strict Products Liability)**

1579. Paragraphs One (1) through One Thousand Five Hundred Seventy-Eight (1,578) are incorporated as if more fully set forth herein.

1580. The aforesaid product was not altered or modified in any way by the users or any third party from the condition in which it was manufactured and sold.

1581. At all times relevant herein, said substance was expected to and did reach the users without substantial change in condition in which it was sold or manufactured.

1582. The defendant Foamex International is a product seller.

1583. The defendant Foamex International, and/or its agents, servants, or employees, are strictly liable and legally responsible for the injuries, damages, and deaths resulting from the manufacturing, sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

1584. As a direct and proximate result thereof, the plaintiff, Michelle Spence, suffered serious injuries to her body and person causing him to suffer severe mental and physical pain and distress.

1585. As a further direct and proximate result thereof, the plaintiff, Michelle Spence has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1586. As a further direct and proximate result thereof, the plaintiff, Michelle Spence, lost time from her employment, thereby suffering an economic loss in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1587. As a further direct and proximate result thereof, the plaintiff, Michelle Spence, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1588. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWO HUNDRED TWENTY-EIGHT**
**By Michelle Spence, as Mother**
**and Next Friend to Hailey Spence**
**Loss of Consortium**
**(Strict Products Liability)**

1589. Paragraphs One (1) through One Thousand Five Hundred Eighty-Eight (1,588) are incorporated as if more fully set forth herein.

1590. As a result of the manufacturing, sale and use of the foam as aforesaid, the Plaintiff, Hailey Spence, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

## CLAIMS AGAINST BARRY H. WARNER

## COUNT TWO HUNDRED TWENTY-NINE
**by Michelle Spence**
**(Negligence)**

1591. Paragraphs One (1) through One Thousand Five Hundred Ninety (1,590) are incorporated as if more fully set forth herein.

1592. At all times relevant hereto, the defendant Barry H. Warner was employed by American Foam Corporation and was acting in the course and scope of her employment.

1593. Prior to February 20, 2003, the defendant Barry H. Warner sold the foam material to the defendants Jeffery Derderian, Michael Derderian, and/or DERCO, LLC, d/b/a The Station to be used as sound-proofing material at the former Station night-club and represented to said defendants that the foam could be safely and appropriately used as sound-proofing material when he knew or should have known that in fact the foam was highly flammable and toxic and could not be safely used for sound-proofing in a night-club where smoking and use of pyrotechnics was permitted.

1594. The defendant Barry H. Warner is liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) He placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) He represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) He failed to provide proper and appropriate warnings to product users;

d) He knew or should have known of the dangerous propensities of said foam yet sold it with reckless disregard for the safety of the public, including the plaintiff;

e) He breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose;

f) He breached its express warranty that said foam was safe and effective for use;

g) He provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

h) He failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

i) He failed to provide sound-proofing material that was fire resistant when he knew the intended use of the product;

j) He failed to warn that pyrotechnics could not be safely used in spaces where the foam insulation was installed; and

k) He failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

1595. As a direct and proximate result thereof, the plaintiff, Michelle Spence, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1596. As a further direct and proximate result thereof, the plaintiff, Michelle Spence has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1597. As a further direct and proximate result thereof, the plaintiff, Michelle Spence on lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1598. As a further direct and proximate result thereof, the plaintiff, Michelle Spence Spence, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1599. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWO HUNDRED THIRTY**
**By Michelle Spence, as Mother**
**and Next Friend to Hailey Spence**
**Loss of Consortium**
**(Negligence)**

1600. Paragraphs One (1) through One Thousand Five Hundred Fifty-Nine (1,559) are incorporated as if more fully set forth herein.

1601. As a result of the use and sale of the foam as aforesaid, the Plaintiff, Hailey Spence, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**COUNT TWO HUNDRED THIRTY-ONE**
**by Michelle Spence**
**(Strict Products Liability)**

1602. Paragraphs One (1) through One Thousand Six Hundred One (1,601) are incorporated as if more fully set forth herein.

1603. At all times relevant hereto, the defendant Barry H. Warner was employed by American Foam Corporation and was acting in the course and scope of her employment.

1604. Prior to February 20, 2003, the defendant Barry H. Warner sold the foam material to the defendants Jeffery Derderian, Michael Derderian, and/or DERCO, d/b/a/ The Station, to be used as sound-proofing material at the former Station night-club and represented to said defendants that the foam could be safely and appropriately used as sound-proofing material when he knew or should have known that in fact the foam was highly flammable and toxic and could not be safely used for sound-proofing in a night-club where smoking and use of pyrotechnics was permitted.

1605. The defendant Barry H. Warner is strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) He placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) He represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) He failed to provide proper and appropriate warnings to product users;

d) He knew or should have known of the dangerous propensities of said foam yet sold it with reckless disregard for the safety of the public, including the plaintiff's decedent;

e) He breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose;

f) He breached its express warranty that said foam was safe and effective for use;

g) He provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

h) He failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

i) He failed to provide sound-proofing material that was fire resistant when he knew the intended use of the product;

j) He failed to warn that pyrotechnics could not be safely used in spaces where the foam insulation was installed; and

k) He failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

1606. As a direct and proximate result thereof, the plaintiff, Michelle Spence, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1607. As a further direct and proximate result thereof, the plaintiff, Michelle Spence has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1608. As a further direct and proximate result thereof, the plaintiff, Michelle Spence, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1609. As a further direct and proximate result thereof, the plaintiff, Michelle Spence, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1610. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the extent are not yet known.

**COUNT TWO HUNDRED THIRTY-TWO**
**By Michelle Spence, as Mother**
**and Next Friend to Hailey Spence**
**Loss of Consortium**
**(Strict Products Liability)**

1611. Paragraphs One (1) through One Thousand Six Hundred Ten (1,610) are incorporated as if more fully set forth herein.

1612. As a result of the use of the foam as aforesaid, the Plaintiff, Hailey Spence, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**CLAIMS AGAINST JEFFERY DERDERIAN, MICHAEL DERDERIAN AND DERCO, LLC, d/b/a THE STATION**

**COUNT TWO HUNDRED THIRTY-THREE**
**By Michelle Spence**
**(Negligence)**

1613. Paragraphs One (1) through One Thousand Six Hundred Twelve (1,612) are incorporated as if more fully set forth herein.

1614. The defendants Jeffrey Derderian, Michael Derderian, and/or DERCO, LLC, d/b/a The Station and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to Michelle Spence in one or more of the following respects, in that they:

a) Failed to properly manage, control, supervise and/or inspect The Station night-club prior to and during the Great White concert;

b) Installed highly flammable and toxic foam material around the stage of the night-club and failed to ensure that the sound-proofing material was fire resistant, in violation of R.I. Gen. Laws Section 23.28.6-15;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to install, maintain, or inspect proper emergency lighting and exit signs that were operable in the event of fire or power outage, in violation of R.I. Gen. Laws Section 23-28.6-13;

f) Failed to adequately inspect The Station for safety hazards;

g) Failed to install sprinklers or other fire prevention apparatus at The Station;

h) Failed to provide adequate exits and failed to inform patrons of The Station of the location of fire exits or require personnel present to do so;

i) Allowed unsafe numbers of persons on the premises during the Great White performance;

j) Allowed The Station to become overcrowded with patrons during performances;

k) Caused or allowed the parking of vehicles in an area around The Station structure so as to impede safe egress in the event of a fire;

l) Caused or allowed uneven floor surfaces in The Station, which constituted a tripping hazard;

m) Knew or should have known of the dangerous conditions at The Station and failed to remedy those conditions; and

n) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

1615. As a direct and proximate result thereof, the plaintiff, Michelle Spence, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1616. As a further direct and proximate result thereof, the plaintiff, Michelle Spence has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1617. As a further direct and proximate result thereof, the plaintiff, Michelle Spence, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1618. As a further direct and proximate result thereof, the plaintiff, Michelle Spence, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1619. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWO HUNDRED THIRTY-FOUR**
**By Michelle Spence**
**Loss of Consortium**
**(Negligence)**

1620. Paragraphs One (1) through One Thousand Six Hundred Nineteen (1,619) incorporated as if more fully set forth herein.

1621 As a result of the aforesaid negligence, the Plaintiff, Hailey Spence, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

## CLAIMS AGAINST MANIC MUSIC MANAGEMENT, INC

## COUNT TWO HUNDRED THIRTY-FIVE
**By Michelle Spence**
**(Negligence)**

1622. Paragraphs One (1) through One Thousand Six Hundred Twenty-One (1,621) are hereby incorporated as if more fully set forth herein.

1623. The defendant Manic Music Management, Inc. and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to the plaintiff Michelle Spence in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station; and

f) Knew or should have known that the band Great White would use pyrotechnics during its concert and yet failed to take reasonable and necessary precautions.

1624. As a direct and proximate result thereof, the plaintiff, Michelle Spence, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1625. As a further direct and proximate result thereof, the plaintiff, Michelle Spence has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1626. As a further direct and proximate result thereof, the plaintiff, Michelle Spence, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to she financial loss.

1627. As a further direct and proximate result thereof, the plaintiff, Michelle Spence, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1628. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWO HUNDRED THIRTY-SIX**
**By Michelle Spence, as Mother**
**and Next Friend of Hailey Spence**
**Loss of Consortium**
**(Negligence)**

1629. Paragraphs One (1) through One Thousand Six Hundred Twenty-Eight (1,628) are incorporated as if more fully set forth herein.

1630. As a result of the use of the foam as aforesaid, the Plaintiff, Hailey Spence, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

## CLAIMS AS TO JACK RUSSELL, MARK KENDALL, DAVID FILICE ERIC POWERS, a/k/a GREAT WHITE

## COUNT TWO HUNDRED TWENTY -SEVEN
**By Michelle Spence**
**(Negligence)**

1631. Paragraphs One(1) through One Thousand Six Hundred Thirty are incorporated as if more fully set forth herein.

1632. The defendants Jack Russell, Mark Kendall, David Filice, Eric Powers, and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to Michelle Spence in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station; and

f) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions.

1633. As a direct and proximate result thereof, the plaintiff, Michelle Spence, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1634. As a further direct and proximate result thereof, the plaintiff, Michelle Spence has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1635. As a further direct and proximate result thereof, the plaintiff, Michelle Spence, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1636. As a further direct and proximate result thereof, the plaintiff, Michelle Spence, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1637. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWO HUNDRED THIRTY-EIGHT**
**By Michelle Spence, as Mother**
**and Next Friend to Hailey Spence**
**Loss of Consortium**
**(Negligence)**

1638. Paragraphs One(1) through One Thousand Six Hundred Thirty-Seven (1,637) are incorporated as if more fully set forth herein.

1639. As a result of the aforesaid negligence, the Plaintiff, Haile Spence, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

## CLAIMS AGAINST DANIEL BICHELE

## COUNT TWO HUNDRED THIRTY-NINE
**By Michelle Spence**
**(Negligence)**

1640. Paragraphs One (1) through One Thousand Six Hundred Thirty-Nine (1,639) are hereby incorporated as if more fully set forth herein.

1641. The defendant Daniel Bichele and/or her agents, servants, or employees, is liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to Michelle Spence in one or more of the following respects, in that he or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Negligently activated dangerous pyrotechnic devices in an overcrowded night-club where it could easily ignite toxic flammable sound-proofing insulation on the walls and ceiling;

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station; and

g) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics.

1642. As a direct and proximate result thereof, the plaintiff, Michelle Spence, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1643. As a further direct and proximate result thereof, the plaintiff, Michelle Spence has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1644. As a further direct and proximate result thereof, the plaintiff, Michelle Spence, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1645. As a further direct and proximate result thereof, the plaintiff, Michelle Spence, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1646. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWO HUNDRED FORTY**
**By Michelle Spence, as Mother**
**and Next Friend to Hailey Spence**
**Loss of Consortium**
**(Negligence)**

1647. Paragraphs One (1) through One Thousand Six Hundred Forty-Six (1,646) are incorporated as if more fully set forth herein.

1648. As a result of the aforesaid negligence, the Plaintiff, Hailey Spence, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**CLAIMS AGAINST PAUL WOOLNOUGHT**
**AND KNIGHT RECORDS, INC**

**COUNT TWO HUNDRED FORTY-ONE**
**by Michelle Spence**
**(Negligence)**

1649. Paragraphs One (1) through One Thousand Six Hundred Forty-Eight (1,648) are hereby incorporated as if more fully set forth herein.

1650. The defendants Paul Woolnough and/or Knight Records, Inc. and/or her or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to Michelle Spence in one or more of the following respects, in that he or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Negligently activated dangerous pyrotechnic devices in an overcrowded night-club where it could easily ignite toxic flammable sound-proofing insulation on the walls and ceiling;

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

g) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions; and

h) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics.

1651. As a direct and proximate result thereof, the plaintiff, Michelle Spence, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1652. As a further direct and proximate result thereof, the plaintiff, Michelle Spence has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1653. As a further direct and proximate result thereof, the plaintiff, Michelle Spence, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1654. As a further direct and proximate result thereof, the plaintiff, Michelle Spence, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1655. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

## COUNT TWO HUNDRED FORTY-TWO

**By Michelle Spence, as Mother
and Next Friend of Hailey Spence
Loss of Consortium
(Negligence)**

1656. Paragraphs One (1) through One Thousand Six Hundred Fifty-Five (1,655) are incorporated as if more fully set forth herein.

1657. As a result of the aforesaid negligence, the Plaintiff, Hailey Spence, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

## CLAIMS AGAINST ANHEUSER-BUSCH, INC.

## COUNT TWO HUNDRED FORTY-THREE

**By Michelle Spence
(Negligence)**

1658. Paragraphs One (1) through One Thousand Six Hundred Fifty-Seven (1,657) are incorporated as if more fully set forth herein.

1659. The defendant Anheuser-Busch, Inc. stood to profit, monetarily or through increased brand awareness, from its sponsorship of and marketing efforts at the Great White concert at The Station on February 20, 2003.

1660. The defendant Anheuser-Busch, Inc., by and through its marketing and promotional activities, including distribution of specially-prepared beer and tickets to the Great White concert, caused or contributed to the dangerous overcrowding at The Station on February 20, 2003.

1661. The defendant Anheuser-Busch, Inc provided funding for promotions or paid for promotions for the event, thereby inducing patrons to attend the event.

1662. The defendant Anheuser-Busch, Inc. and/or its agents, servants, or employees, owed a legal duty to the Plaintiffs and is liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting in the injuries of the plaintiff in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities;

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

g) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions;

h) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics; and

i) Attached its name to the event, thereby inducing patrons to attend the event because of the credibility given to the event by use of the name Anheuser-Busch, Inc.

1663. As a direct and proximate result thereof, the plaintiff, Michelle Spence, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1664. As a further direct and proximate result thereof, the plaintiff, Michelle Spence has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1665. As a further direct and proximate result thereof, the plaintiff, Michelle Spence, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1666. As a further direct and proximate result thereof, the plaintiff, Michelle Spence, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1667. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWO HUNDRED FORTY-FOUR**
**By Michelle Spence, as Mother**
**and Next Friend to Hailey Spence**
**Loss of Consortium**
**(Negligence)**

1668. Paragraphs One (1) through One Thousand Six Hundred Sixty-Seven(1,667) are incorporated as if more fully set forth herein.

1669. As a result of the aforesaid negligence, the Plaintiff, Hailey Spence, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**CLAIMS AGAINST MCLAUGHLIN & MORAN, INC**

**COUNT TWO HUNDRED FORTY-FIVE**
**By Michelle Spence**
**(Negligence)**

1670. Paragraphs One (1) through One Thousand Six Hundred Sixty-Nine (1,670) are incorporated as if more fully set forth herein.

1671. The defendant McLaughlin & Moran, Inc. stood to profit, monetarily or through increased brand awareness, from its sponsorship of and marketing efforts at the Great White concert at The Station on February 20, 2003.

1672. The defendant McLaughlin & Moran, Inc., by and through its marketing and promotional activities, including distribution of specially-prepared beer and promotional tickets to the

Great White concert, caused or contributed to the dangerous overcrowding at The Station on February 20, 2003.

1673. The defendant, McLaughlin & Moran, Inc provided funding for promotions or paid for promotions for the event, thereby inducing patrons to attend the event.

1674. The defendant McLaughlin & Moran, Inc. and/or its agents, servants, or employees, owed a legal duty to the Plaintiffs and is liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to Michelle Spence in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities;

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

g) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions;

h) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics; and

i) Attached its name to the event, thereby inducing patrons to attend the event because of the credibility given to the event by use of the name McLaughlin & Moran, Inc.

1675. As a direct and proximate result thereof, the plaintiff, Michelle Spence, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1676. As a further direct and proximate result thereof, the plaintiff, Michelle Spence has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1677. As a further direct and proximate result thereof, the plaintiff, Michelle Spence, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1678. As a further direct and proximate result thereof, the plaintiff, Michelle Spence, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1679. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWO HUNDRED SIXTY-SIX**
**By Michelle Spence, as Mother**
**and Next Friend of Hailey Spence**
**Loss of Consortium**
**(Negligence)**

1680. Paragraphs One (1) through One Thousand Six Hundred Seventy-Nine (1,679) are incorporated as if more fully set forth herein.

1681. As a result of the aforesaid negligence, the Plaintiff, Hailey Spence, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**CLAIMS AGAINST CLEAR CHANNEL COMMUNICATIONS, INC**

**COUNT TWO HUNDRED FORTY-SEVEN**
**by Michelle Spence**
**(Negligence)**

1682. Paragraphs One (1) through One Thousand Sixty Hundred Eighty-One (1,681) are incorporated as if more fully set forth herein.

1683. The defendant Clear Channel Communications, Inc., d/b/a WHJY-FM stood to profit, monetarily or through increased brand awareness, from its sponsorship of and marketing efforts at the Great White concert at The Station on February 20, 2003.

1684. The defendant Clear Channel Communications, Inc., d/b/a WHJY-FM by and through their marketing and promotional activities, including distribution of promotional tickets to the Great White concert, caused or contributed to the dangerous overcrowding at The Station on February 20, 2003.

1685. The defendant, Clear Channel Communications, Inc., d/b/a WHJY-FM provided funding for promotions or paid for promotions for the event, thereby inducing patrons to attend the event.

1686. The defendant Clear Channel Communications, Inc., d/b/a WHJY-FM and/or their agents, servants, or employees, owed a legal duty and are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to Michelle Spence in one or more of the following respects, in that they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities;

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

g) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions;

h) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics; and

i) Attached its name to the event, thereby inducing patrons to attend the event because of the credibility given to the event by use of the name Clear Channel Communications, Inc., d/b/a WHJY-FM.

1687. As a direct and proximate result thereof, the plaintiff, Michelle Spence, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1688. As a further direct and proximate result thereof, the plaintiff, Michelle Spence has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1689. As a further direct and proximate result thereof, the plaintiff, Michelle Spence, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1690. As a further direct and proximate result thereof, the plaintiff, Michelle Spence, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1691. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWO HUNDRED FORTY-EIGHT**
**By Michelle Spence, as Mother**
**and Next Friend to Hailey Spence**
**Loss of Parental Consortium**
**(Negligence)**

1692. Paragraphs One (1) through One Thousand Six Hundred Ninety-One (1,691) are incorporated as if more fully set forth herein.

1693. As a result of the use of the foam as aforesaid, the Plaintiff, Hailey Spence, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**CLAIMS AGAINST LUNA TECH, INC AND LUNA TECH PYROTECHNIC, GMBH**

**COUNT TWO HUNDRED FORTY-NINE**
**By Michelle Spence**
**(Negligence)**

1695. Paragraphs One (1) through One Thousand Six Hundred Ninety-Four (1,695) are incorporated as if more fully set forth herein.

1696. The defendants Luna Tech, Inc. and Luna Tech Pyrotechnic, GMBH, and/or their agents, servants, or employees, owed a legal duty to the Plaintiffs and are liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from sale and use pyrotechnics product, in one or more of the following respects, in that they:

a) Placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the devices were highly flammable and could not be safely used by bands in night-clubs;

b) Sold said devices to bands and represented that said devices were safe for their intended uses;

c) Failed to provide proper and appropriate warnings to product users;

d) Failed to properly design, manufacture, assemble, test, label, and market the devices;

e) Failed to warn that pyrotechnics could not be safely used in night-clubs or similar spaces where flammable foam insulation or other unsuitable construction material was installed;

f) Said substance was defective and unreasonably dangerous and could not be used without unreasonable risk of injury to the decedent;

g) The warnings and instructions which were given were inadequate and failed to provide sufficient notice to the decedent of the dangerous propensities of said product;

h) The Defendants misrepresented to the decedent and the general public that the substance in question was safe for use by the public;

i) The Defendants failed to disclose to the decedent and the general public the dangerous propensities of said substance;

j) The Defendants were negligent in that they failed to properly and adequately test said product prior to marketing it in that they designed said product in a defective manner;

k) The Defendants were negligent in that they knew or should have known of the dangerous characteristics of said product, yet continued to manufacture and distribute said product;

l) The Defendants were negligent in that they used improper materials in the construction of said product; and

m) The Defendants knew or should have known of the dangerous characteristics of said product, and yet decided to market and continued to market it.

1697. As a direct and proximate result thereof, the plaintiff, Michelle Spence, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1698. As a further direct and proximate result thereof, the plaintiff, Michelle Spence has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1699. As a further direct and proximate result thereof, the plaintiff, Michelle Spence, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1700. As a further direct and proximate result thereof, the plaintiff, Michelle Spence, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1701. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWO HUNDRED FIFTY**
**By Michelle Spence, as Mother and Next Friend to Hailey Spence**
**Loss of Consortium**

1702. Paragraphs One (1) through One Thousand Seven Hundred One (1,701) are incorporated as if more fully set forth herein.

1703. As a result of the aforesaid negligence, the Plaintiff, Hailey Spence, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**COUNT TWO HUNDRED FIFTY-ONE**
**by Michelle Spence**
**(Strict Products Liability)**

1704. Paragraphs One (1) through One Thousand Seven Hundred Three (1,703) are incorporated as if more fully set forth herein.

1705. The aforesaid product was not altered or modified in any way by the users or any third party from the condition in which it was manufactured and sold.

1706. At all times relevant herein, said substance was expected to and did reach the users without substantial change in condition in which it was sold or manufactured.

1707. The defendants, Luna Tech, Inc. and Luna Tech Pyrotechnic, GMBH is a product seller.

1708. The defendants Luna Tech, Inc. and Luna Tech Pyrotechnic, GMBH, and/or their agents, servants, or employees, are strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that they:

a) Placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the devices were highly flammable and could not be safely used by bands in night-clubs;

b) Sold said devices to bands and represented that said devices were safe for their intended uses;

c) Failed to provide proper and appropriate warnings to product users;

d) Failed to properly design, manufacture, assemble, test, label, and market the devices;

e) Failed to warn that pyrotechnics could not be safely used in night-clubs or similar spaces where flammable foam insulation or other unsuitable construction material was installed;

f) Said substance was defective and unreasonably dangerous and could not be used without unreasonable risk of injury to the decedent;

g) The warnings and instructions which were given were inadequate and failed to provide sufficient notice to the decedent of the dangerous propensities of said product;

h) The Defendants misrepresented to the decedent and the general public that the substance in question was safe for use by the public;

i) The Defendants failed to disclose to the decedent and the general public the dangerous propensities of said substance;

j) Defendants were negligent in that they failed to properly and adequately test said product prior to marketing it in that they designed said product in a defective manner;

k) The Defendants were negligent in that they knew or should have known of the dangerous characteristics of said product, yet continued to manufacture and distribute said product;

l) The Defendants were negligent in that they used improper materials in the construction of said product; and

m) The Defendants knew or should have known of the dangerous characteristics of said product, and yet decided to market and continued to market it.

1709. As a direct and proximate result thereof, the plaintiff, Michelle Spence, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1710. As a further direct and proximate result thereof, the plaintiff, Michelle Spence has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1711. As a further direct and proximate result thereof, the plaintiff, Michelle Spence, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1712. As a further direct and proximate result thereof, the plaintiff, Michelle Spence, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1713. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWO HUNDRED FIFTY-TWO**
**By Michelle Spence, as Mother**
**and Next Friend to Hailey Spence**
**Loss of Parental Consortium**
**(Strict Products Liability)**

1714. Paragraphs One (1) through One Thousand Seven Hundred Thirteen (1,713) are incorporated as if more fully set forth herein.

1715. As a result of the sale of pyrotechnics aforesaid, the Plaintiff, Hailey Spence, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**CLAIMS AGAINST JOINT VENTURE LIABILITY AS TO JEFFREY DERDERIAN, MICHAEL DERDERIAN, AND DERCO LLC D/B/A THE STATION, MANIC MUSIC MANAGEMENT, INC., JACK RUSSELL, MARK KENDALL, DAVID FILICE, ERIC POWERS, DANIEL BICHIELE, PAUL WOOLNOUGH, KNIGHT RECORDS, INC., ANHEUSER-BUSCH, INC., MCLAUGHLIN & MORAN, INC., CLEAR CHANNEL COMMUNICATIONS, INC., D/B/AWHJY-FM, MOTIVA ENTERPRISES, LLC AND SHELL OIL COMPANY AND THE TOWN OF WEST WARWICK AND STATE OF RHODE ISLAND**

**COUNT TWO HUNDRED FIFTY-THREE**
**by Michelle Spence**
**(Negligence)**

1716. Paragraphs One (1) through One Thousand Seven Hundred Fifteen (1,715) are incorporated as if more fully set forth herein.

1717. Prior to the Great White concert that occurred on February 20, 2003, the defendants Jeffrey Derderian, Michael Derderian, and DERCO LLC d/b/a The Station, Manic Music

Management, Inc., Jack Russell, Mark Kendall, David Filice, Eric Powers, Daniel Bichiele, Paul Woolnough, Knight Records, Inc., Anheuser-Busch, Inc., McLaughlin & Moran, Inc., Clear Channel Communications, Inc., d/b/a WHJY-FM, Motiva Enterprises, LLC and Shell Oil Company and The Town of West Warwick and State of Rhode Island., entered into an express or implied agreement for the common purpose and design of planning, endorsing, sponsoring, promoting, and/or advertising the concert.

1718. The defendants joined and participated in this joint venture for the purpose of pursuing their common business interests and for economic gain.

1729. Each of the participating defendants had a right to voice concerns regarding the event and each controlled certain aspects of the planning, endorsement, sponsorship, promotion, and/or advertising relating to the Great White concert, including but not limited to the selection and inspection of the venue, The Station.

1730. The defendants, and/or their agents, servants, employees and/or contractors acting within the course and scope of their employment or agency, owed a legal duty to the Plaintiffs and are liable and legally responsible for the injuries, damages, and deaths resulting from negligent, careless and/or reckless acts or omissions in planning, endorsing, sponsoring, promoting and/or advertising the Great White concert that occurred on February 20, 2003, in one or more of the following respects:

a) Failed to properly manage, control, supervise and/or inspect The Station night-club prior to and during the Great White concert;

b) Installed or permitted to be installed highly flammable and toxic foam material around the stage of the night-club and failed to ensure that the sound-proofing material was fire resistant, in violation of R.I. Gen. Laws Section 23.28.6-15;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to inspect proper emergency lighting and exit signs that were operable in the event of fire or power outage, in violation of R.I. Gen. Laws Section 23-28.6-13;

f) Failed to adequately inspect The Station for safety hazards, or negligently performed same;

g) Failed to inspect for sprinklers or other fire prevention equipment and apparatus at The Station;

h) Failed to provide adequate exits and failed to inform patrons of The Station of the location of fire exits or require personnel present to do so;

i) Allowed unsafe numbers of persons on the premises during the Great White performance;

j) Allowed The Station to become overcrowded with patrons during performances;

k) Caused or allowed the parking of vehicles in an area around The Station structure so as to impede safe egress in the event of a fire;

l) Caused or allowed uneven floor surfaces in The Station which constituted a tripping hazard;

m) Knew or should have known of the dangerous conditions at The Station and failed to remedy those conditions;

n) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station; and

o) Were otherwise negligent in their selection and/or inspection of the venue for the Great White concert, The Station.

1731. As a direct and proximate result thereof, the plaintiff, Michelle Spence, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1732. As a further direct and proximate result thereof, the plaintiff, Michelle Spence has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1733. As a further direct and proximate result thereof, the plaintiff, Michelle Spence, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1734. As a further direct and proximate result thereof, the plaintiff, Michelle Spence, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1735. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWO HUNDRED FIFTY-FOUR**
**By Michelle Spence, as Mother**
**and Next Friend to Hailey Spence**
**Loss of Parental Consortium**
**(Negligence)**

1736. Paragraphs One (1) through One Thousand Seven Hundred Thirty-Five (1,735) are incorporated as if more fully set forth herein.

1737. As a result of the aforesaid negligence, the Plaintiff, Hailey Spence, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**CLAIMS AGAINST SHELL OIL CORPORATION AND MOTIVE ENTERPRISE, LLC**

**COUNT TWO HUNDRED FIFTY-FIVE**
**By Michelle Spence**
**(Negligence)**

1738. Paragraphs One (1) through One Thousand Seven Hundred Thirty-Seven (1,737) are incorporated as more fully set forth herein.

1739. Upon information and belief, the defendant, Shell Oil Company, d/b/a Motiva Enterprises, LLC, was the owner/lessor of certain property located at 7380 Post Road, North Kingstown, Rhode Island.

1740. Upon information and belief, defendant DERCO LLC was the manager and lessee of the aforesaid property owned by, the defendant, Shell Oil Company, d/b/a Motiva Enterprises, LLC.

1741. Upon information and belief, the defendant Shell Oil Company dominated, controlled and/or managed the practices, policies and finances of Motiva, LLC and the gas station operation at the 7380 Post Road facility, including but not limited to exercising joint control over the management, inventory, marketing, promotions, and pricing policies

1742. The defendants Shell Oil Company and Motiva Enterprises, LLC owed a legal duty to patrons of The Station because they engaged in the promotion of the Great White performance at The Station by distributing certain tickets in return for certain purchases of its merchandise, which promotion was expressly or impliedly approved by Shell Oil Company and its subsidiary Motiva Enterprises, LLC in negligent disregard for the safety of the anticipated patrons at the performance.

1743. The defendants Shell Oil Company and Motiva Enterprises, LLC endorsed, sponsored, promoted, and/or advertised the Great White concert and stood to profit monetarily these activities and marketing efforts.

1744. Upon information and belief, the defendants Shell Oil Company and Motiva Enterprises, LLC expressly and/or impliedly represented and warranted to the public through its marketing, promotional activities and ticket sales that the venue selected for the show was reasonably safe and would not subject patrons to an unreasonable risk of serious injury or death.

1745. The defendants, Shell Oil Company and Motiva Enterprises, LLC, knew or should have known that, if the venue for the performance did not have adequate fire protection and suppression equipment, that patrons would be subjected to a foreseeable, unreasonable risk of injury or even death.

1746. The defendants, Shell Oil Company and Motiva Enterprises, LLC, knew or should have known that members of the public, including the Injured Plaintiff, were relying on it to exercise proper care, skill and diligence in the review and selection of a safe venue for concerts for which it sold tickets.

1747. The defendants Shell Oil Company and Motiva Enterprises, LLC were negligent and careless in the manner in which they engaged in the promotion of the aforesaid performance, which negligence and carelessness caused the injuries and damages as hereinafter set forth.

1748. The defendants Shell Oil Company and Motiva Enterprises, LLC through its agents, servants, employees or contractors acting within the course and scope of their employment or agency, owed a legal duty to the Plaintiff and Plaintiff's minor child and is liable and legally responsible for negligence in causing injury to the Plaintiff in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the nightclub;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the nightclub in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the nightclub by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities;

f) Failed to properly and adequately review, inspect and approve The Station as a safe venue for members of the public;

g) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

h) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions;

i) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics; and

j) Attached its name to the event, thereby inducing patrons to attend the event because of the credibility given to the event by use of the name Shell Oil.

1749. As a direct and proximate result thereof, the plaintiff, Michelle Spence, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1750. As a further direct and proximate result thereof, the plaintiff, Michelle Spence has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1751. As a further direct and proximate result thereof, the plaintiff, Michelle Spence, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1752. As a further direct and proximate result thereof, the plaintiff, Michelle Spence has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1753. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWO HUNDRED FIFTY-SIX**
**By Michelle Spence, as Mother**
**and Next Friend to Hailey Spence**
**Loss of Parental Consortium**
**(Negligence)**

1754. Paragraphs One (1) through One Thousand Eight Hundred Ninety-Three (1,893) are incorporated as if more fully set forth herein.

1755. As a result of the aforesaid negligence, the Plaintiff, Hailey Spence, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

## CLAIMS AGAINST TOWN OF WEST WARWICK AND FIRE INSPECTOR, DENNIS LAROCQUE

### COUNT TWO HUNDRED FIFTY-SEVEN
**By Michelle Spence**
**(Negligence)**

1756. Paragraphs One (1) through One Thousand Seven Hundred Fifty-Five (1,755) are incorporated as more fully set forth herein.

1757. The Town of West Warwick and its Fire Inspector, Dennis Larocque, are responsible for the inspection of commercial facilities in the Town of West Warwick and enforcement of the building and fire code laws of the State of Rhode Island.

1758. The Town of West Warwick and Fire Inspector, Dennis Larocque, owed a legal duty to the public in general and the patrons of The Station in particular to exercise reasonable care and due diligence by properly inspecting commercial properties in the Town of West Warwick.

1759. The Town of West Warwick and Fire Inspector, Dennis Larocque, were negligent and careless in failing to properly inspect the Station and enforce the laws of the State of Rhode Island, which negligence and carelessness proximately caused the injuries and damages as hereinafter set forth.

1760. The Town is liable for the negligence of its agents, servants, and employees, and owed a special duty to each Plaintiff.

1761. The Town of West Warwick and Fire Inspector, Dennis Larocque, through its agents, servants, and employees were negligent and careless in one or more of the following ways, in that they:

a) Failed to enforce the building code and fire safety laws of the State of Rhode Island;

b) Failed to adequately inspect The Station;

c) Failed to conduct regular inspections of The Station;

d) Failed to discover and take action for the highly flammable and toxic materials existing on the premises of The Station, which materials should have been discovered by a reasonable inspection;

e) Failed to properly train personnel in fire safety laws, regulations and standards;

f) Failed to require sprinkler systems or other fire prevention devices at The Station;

g) Failed to employ adequate employees and/or personnel to adequately enforce the fire safety laws, regulations and standards;

h) Failed to appropriate adequate funds for the enforcement of fire safety laws, regulations and standards;

i) Knew or should have known of the use of pyrotechnics at The Station and failed to take action to prevent the same when it was unsafe to use pyrotechnics under the circumstances;

j) Failed to enforce Section 23-28-18-4 of the Rhode Island General Laws by failing to ensure that The Station, which provided performances to more than seventy-five (75) people, was free from combustible debris; and

k) Failed to require that The Station limit the number of patrons on the premises to a safe number of patrons.

1762. As a direct and proximate result thereof, the plaintiff, Michelle Spence, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1763. As a further direct and proximate result thereof, the plaintiff, Michelle Spence has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1764. As a further direct and proximate result thereof, the plaintiff, Michelle Spence lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1765. As a further direct and proximate result thereof, the plaintiff, Michelle Spence, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1766. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

1767. The Fire Inspector, Dennis Larocque, is entitled to indemnity by the Town of West Warwick, pursuant to Section 45-15-16 of the Rhode Island General Laws.

1768. Pursuant to Section 45-15-5 of the Rhode Island General Laws, the Plaintiffs have provided the Town of West Warwick with a valid Notice of Presentment of Claim, and more than forty (40) days have passed since said notice was provided.

**COUNT TWO HUNDRED FIFTY-EIGHT**
**By Michelle Spence, as Mother**
**and Next Friend to Hailey Spence**
**Loss of Parental Consortium**
**(Negligence)**

1769. Paragraphs One(1) through One Thousand Seven Hundred Sixty-Eight (1,768) are incorporated as if more fully set forth herein.

1770. As a result of the use of the aforesaid negligence, the Plaintiff, Hailey Spence, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**CLAIMS AGAINST STATE OF RHODE ISLAND**
**AND FIRE MARSHAL, IRVING J. OWENS**

**COUNT TWO HUNDRED FIFTY-NINE**
**By Michelle Spence**
**(Negligence)**

1771. Paragraphs One (1) through One Thousand Seven Hundred Seventy (1,770) are hereby incorporated as more fully set forth herein.

1772. The State of Rhode Island and its Fire Marshal, Irving J. Owens, are responsible for the inspection of commercial facilities in the Town of West Warwick and enforcement of the building and fire code laws of the State of Rhode Island.

1773. Pursuant to Section 23-28.2-4 of the Rhode Island General Laws, the State of Rhode Island and Fire Marshal, Irving J. Owens, owed a legal duty to the public in general and the patrons of The Station in particular to exercise reasonable care and due diligence by properly inspecting or causing proper inspections commercial properties in the Town of West Warwick, and to enforce and perform the duties required by the Fire Safety Code.

1774. The State and Fire Marshal were negligent and careless in failing to properly inspect the Station and enforce the laws of the State of Rhode Island, which negligence and carelessness proximately caused the injuries and damages as hereinafter set forth.

1775. The State and Fire Marshal are liable for the negligence of its agents, servants, and employees, and owed a special duty to each Plaintiff.

1776. The State and Fire Marshal, through their agents, servants, and employees were negligent and careless in one or more of the following ways, in that they:

a) Failed to enforce the building code and fire safety laws of the State of Rhode Island;

b) Failed to adequately inspect The Station;

c) Failed to conduct regular inspections of The Station;

d) Failed to discover and take action for the highly flammable and toxic materials existing on the premises of The Station, which materials should have been discovered by a reasonable inspection;

e) Failed to properly train personnel in fire safety laws, regulations and standards;

f) Failed to require sprinkler systems or other fire prevention devices at The Station;

g) Failed to employ adequate employees and/or personnel to adequately enforce the fire safety laws, regulations and standards;

h) Failed to appropriate adequate funds for the enforcement of fire safety laws, regulations and standards;

i) Knew or should have known of the use of pyrotechnics at The Station and failed to take action to prevent the same when it was unsafe to use pyrotechnics under the circumstances;

j) Failed to enforce Section 23-28-18-4 of the Rhode Island General Laws by failing to ensure that The Station, which provided performances to more than seventy-five (75) people, was free from combustible debris; and

k) Failed to require that The Station limit the number of patrons on the premises to a safe number of patrons.

1777. As a direct and proximate result thereof, the plaintiff, Michelle Spence, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1778. As a further direct and proximate result thereof, the plaintiff, Michelle Spence has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1779. As a further direct and proximate result thereof, the plaintiff, Michelle Spence lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1780. As a further direct and proximate result thereof, the plaintiff, Michelle Spence, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1781. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

1782. The Fire Marshal, Irving J. Owens, is entitled to indemnity by the Town of West Warwick pursuant to Section 23-28.2-17 of the Rhode Island General Laws.

1783. Pursuant to Section 45-15-5 of the Rhode Island General Laws, the Plaintiffs have provided the Town of West Warwick with a valid Notice of Presentment of Claim, and more than forty (40) days have passed since said notice was provided.

**COUNT TWO HUNDRED SEVENTY**
**By Michelle Spence, as Mother**
**and Next Friend to Hailey Spence**
**Loss of Parental Consortium**
**(Negligence)**

1784. Paragraphs One (1) through One Thousand Seven Hundred Eighty-Three (1,783) are incorporated as if more fully set forth herein.

1785. As a result of the use of the foam as aforesaid, the Plaintiff, Hailey Spence, minor, daughter of the Injured Plaintiff, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Injured Plaintiff.

**CLAIMS AGAINST AMERICAN FOAM**

**COUNT TWO HUNDRED SIXTY-ONE**
**by Catherine Carignan**
**(Negligence)**

1786. Paragraphs One (1) through One Thousand Seven Hundred Eighty-Five (1,786) are incorporated as if more fully set forth herein.

1787. The defendant American Foam Corporation, and/or its agents, servants, or employees, owed a legal duty to the Plaintiff and are liable and legally responsible for negligence which was a proximate cause of the injuries, and damages resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

1788. As a direct and proximate result thereof, the plaintiff, Catherine Carignan, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1789. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1790. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan, lost time from her employment, thereby suffering an economic loss in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1791. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1792. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWO HUNDRED SIXTY-TWO**
**By Catherine Carignan**
**(Strict Products Liability)**

1793. Paragraphs One (1) through One Thousand Seven Hundred Ninety-Two (1,792) are incorporated as if more fully set forth herein.

1794. The aforesaid product was not altered or modified in any way by the users or any third party from the condition in which it was manufactured and sold.

1795. At all times relevant herein, said substance was expected to and did reach the users without substantial change in condition in which it was sold or manufactured.

1796. The defendant American Foam Corp. is a product seller.

1797. The defendant American Foam Corporation, and/or its agents, servants, or employees, are strictly liable and legally responsible for the injuries and damages resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

1798. As a direct and proximate result thereof, the plaintiff, Catherine Carignan, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1799. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1800. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1801. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1802. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

## CLAIMS AGAINST FOAMEX INTERNATIONAL

### COUNT TWO HUNDRED SIXTY-THREE
**By Catherine Carignan**
**(Negligence)**

1803. Paragraphs One (1) through One Thousand Eight Hundred Two (1,802) are incorporated as if more fully set forth herein.

1804. The defendant Foamex International, and/or its agents, servants, or employees, owed a legal duty to the Plaintiffs and are liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

1805. As a direct and proximate result thereof, the plaintiff, Catherine Carignan, suffered serious injuries to her body and person causing him to suffer severe mental and physical pain and distress.

1806. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1807. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan, lost time from her employment, thereby suffering an economic loss in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1808. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1809. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWO HUNDRED FIFTY-FOUR**
**of Catherine Carignan**
**(Strict Products Liability)**

1810. Paragraphs One (1) through One Thousand Eight Hundred Nine (1,809) are incorporated as if more fully set forth herein.

1812. The aforesaid product was not altered or modified in any way by the users or any third party from the condition in which it was manufactured and sold.

1813. At all times relevant herein, said substance was expected to and did reach the users without substantial change in condition in which it was sold or manufactured.

1814. The defendant Foamex International is a product seller.

1815. The defendant Foamex International, and/or its agents, servants, or employees, are strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

1816. As a direct and proximate result thereof, the plaintiff, Catherine Carignan , suffered serious injuries to her body and person causing him to suffer severe mental and physical pain and distress.

1817. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1818. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan, lost time from her employment, thereby suffering an economic loss in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1819. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1820. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

## CLAIMS AGAINST BARRY H. WARNER

## COUNT TWO HUNDRED SIXTY-FIVE
**By Catherine Carignan**
**(Negligence)**

1821. Paragraphs One (1) through One Thousand Eight Hundred Twenty (1,820) are incorporated as if more fully set forth herein.

1822. At all times relevant hereto, the defendant Barry H. Warner was employed by American Foam Corporation and was acting in the course and scope of his employment.

1823. Prior to February 20, 2003, the defendant Barry H. Warner sold the foam material to the defendants Jeffery Derderian, Michael Derderian, and/or DERCO, LLC, d/b/a The Station to be used as sound-proofing material at the former Station night-club and represented to said defendants that the foam could be safely and appropriately used as sound-proofing material when he knew or should have known that in fact the foam was highly flammable and toxic and could not be safely used for sound-proofing in a night-club where smoking and use of pyrotechnics was permitted.

1824. The defendant Barry H. Warner is liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) He placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) He represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) He failed to provide proper and appropriate warnings to product users;

d) He knew or should have known of the dangerous propensities of said foam yet sold it with reckless disregard for the safety of the public, including the plaintiff;

1821. Paragraphs One (1) through One Thousand Eight Hundred Twenty (1,820) are incorporated as if more fully set forth herein.

1822. At all times relevant hereto, the defendant Barry H. Warner was employed by American Foam Corporation and was acting in the course and scope of his employment.

1823. Prior to February 20, 2003, the defendant Barry H. Warner sold the foam material to the defendants Jeffery Derderian, Michael Derderian, and/or DERCO, LLC, d/b/a The Station to be used as sound-proofing material at the former Station night-club and represented to said defendants that the foam could be safely and appropriately used as sound-proofing material when he knew or should have known that in fact the foam was highly flammable and toxic and could not be safely used for sound-proofing in a night-club where smoking and use of pyrotechnics was permitted.

1824. The defendant Barry H. Warner is liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) He placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) He represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) He failed to provide proper and appropriate warnings to product users;

d) He knew or should have known of the dangerous propensities of said foam yet sold it with reckless disregard for the safety of the public, including the plaintiff;

e) He breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose;

f) He breached its express warranty that said foam was safe and effective for use;

g) He provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

h) He failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

i) He failed to provide sound-proofing material that was fire resistant when he knew the intended use of the product;

j) He failed to warn that pyrotechnics could not be safely used in spaces where the foam insulation was installed; and

k) He failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

1825. As a direct and proximate result thereof, the plaintiff, Catherine Carignan, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1826. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1827. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan on lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1829. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1830. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWO HUNDRED SIXTY-SIX**
**By Catherine Carignan**
**(Strict Products Liability)**

1831. Paragraphs One (1) through One Hundred Seventy (1,970) are incorporated as if more fully set forth herein.

1832. At all times relevant hereto, the defendant Barry H. Warner was employed by American Foam Corporation and was acting in the course and scope of her employment.

1833. Prior to February 20, 2003, the defendant Barry H. Warner sold the foam material to the defendants Jeffery Derderian, Michael Derderian, and/or DERCO, d/b/a/ The Station, to be used as sound-proofing material at the former Station night-club and represented to said defendants that the foam could be safely and appropriately used as sound-proofing material when he knew or should have known that in fact the foam was highly flammable and toxic and could not be safely used for sound-proofing in a night-club where smoking and use of pyrotechnics was permitted.

1834. The defendant Barry H. Warner is strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) He placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) He represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) He failed to provide proper and appropriate warnings to product users;

d) He knew or should have known of the dangerous propensities of said foam yet sold it with reckless disregard for the safety of the public, including the plaintiff's decedent;

e) He breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose;

f) He breached its express warranty that said foam was safe and effective for use;

g) He provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

h) He failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

i) He failed to provide sound-proofing material that was fire resistant when he knew the intended use of the product;

j) He failed to warn that pyrotechnics could not be safely used in spaces where the foam insulation was installed; and

k) He failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

1835. As a direct and proximate result thereof, the plaintiff, Catherine Carignan, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1836. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1837. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1838. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1839. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the extent are not yet known.

## CLAIMS AGAINST JEFFREY DERDERIAN, MICHAEL DERDERIAN AND DERCO, LLC d/b/a THE STATION

## COUNT TWO HUNDRED SIXTY-SEVEN

**By Catherine Carignan**
**(Negligence)**

1840. Paragraphs One (1) through One Thousand Eight Hundred Thirty-Nine(1,839) are hereby incorporated as if more fully set forth herein.

1841. The defendants Jeffrey Derderian, Michael Derderian, and/or DERCO, LLC, d/b/a The Station and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to Catherine Carignan in one or more of the following respects, in that they:

a) Failed to properly manage, control, supervise and/or inspect The Station night-club prior to and during the Great White concert;

b) Installed highly flammable and toxic foam material around the stage of the night-club and failed to ensure that the sound-proofing material was fire resistant, in violation of R.I. Gen. Laws Section 23.28.6-15;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to install, maintain, or inspect proper emergency lighting and exit signs that were operable in the event of fire or power outage, in violation of R.I. Gen. Laws Section 23-28.6-13;

f) Failed to adequately inspect The Station for safety hazards;

g) Failed to install sprinklers or other fire prevention apparatus at The Station;

h) Failed to provide adequate exits and failed to inform patrons of The Station of the location of fire exits or require personnel present to do so;

i) Allowed unsafe numbers of persons on the premises during the Great White performance;

j) Allowed The Station to become overcrowded with patrons during performances;

k) Caused or allowed the parking of vehicles in an area around The Station structure so as to impede safe egress in the event of a fire;

l) Caused or allowed uneven floor surfaces in The Station, which constituted a tripping hazard;

m) Knew or should have known of the dangerous conditions at The Station and failed to remedy those conditions; and

n) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

1842. As a direct and proximate result thereof, the plaintiff, Catherine Carignan, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1843. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1844. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1845. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1846. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

## CLAIMS AGAINST MANIC MUSIC MANAGEMENT, INC

### COUNT TWO HUNDRED SIXTY-EIGHT
**By Catherine Carignan**
**(Negligence)**

1847. Paragraphs One (1) through One Thousand Eight Hundred Forty-Six (1,846) are incorporated as if more fully set forth herein.

1848. The defendant Manic Music Management, Inc. and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to the plaintiff Catherine Carignan in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station; and

f) Knew or should have known that the band Great White would use pyrotechnics during its concert and yet failed to take reasonable and necessary precautions.

1849. As a direct and proximate result thereof, the plaintiff, Catherine Carignan, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1850. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1851. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to she financial loss.

1852. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1853. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**CLAIMS AGAINST JACK RUSSELL, MARK KENDALL, DAVID FILICE ERIC POWERS, d/b/a GREAT WHITE**

**COUNT TWO HUNDRED SIXTY-NINE**
**By Catherine Carignan**
**(Negligence)**

1854. Paragraphs One (1) through One Thousand Nine Hundred Ninety-Three (1,993) are incorporated as if more fully set forth herein.

1855. The defendants Jack Russell, Mark Kendall, David Filice, Eric Powers, and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to Catherine Carignan in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station; and

f) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions.

1856. As a direct and proximate result thereof, the plaintiff, Catherine Carignan, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1857. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1858. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1859. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1860. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**CLAIMS AGAINST DANIEL BICHELE**

**COUNT TWO HUNDRED SEVENTY**
**By Catherine Carignan**
**(Negligence)**

1861. Paragraphs One (1) through One Thousand Eight Hundred Sixty (1,860) are hereby incorporated as if more fully set forth herein.

1862. The defendant Daniel Bichele and/or her agents, servants, or employees, is liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to Catherine Carignan in one or more of the following respects, in that he or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Negligently activated dangerous pyrotechnic devices in an overcrowded night-club where it could easily ignite toxic flammable sound-proofing insulation on the walls and ceiling;

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station; and

g) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics.

1863. As a direct and proximate result thereof, the plaintiff, Catherine Carignan, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1864. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1865. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1866. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1867. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

## CLAIMS AGAINST PAUL WOOLNOUGH AND KNIGHT RECORDS, INC

## COUNT TWO HUNDRED SEVENTY-ONE: By Catherine Carignan (Negligence)

1868. Paragraphs One (1) through One Thousand Eight Hundred Sixty-Eight(1,868) are hereby incorporated as if more fully set forth herein.

1869. The defendants Paul Woolnough and/or Knight Records, Inc. and/or her or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to Catherine Carignan in one or more of the following respects, in that he or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Negligently activated dangerous pyrotechnic devices in an overcrowded night-club where it could easily ignite toxic flammable sound-proofing insulation on the walls and ceiling;

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

g) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions; and

h) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics.

1870. As a direct and proximate result thereof, the plaintiff, Catherine Carignan, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1871. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1872. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1873. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1874. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

## CLAIMS AGAINST ANHEUSER-BUSCH, INC

## COUNT TWO HUNDRED SEVENTY-TWO
**By Catherine Carignan**
**(Negligence)**

1875. Paragraphs One (1) through Two Thousand Fourteen are incorporated as if more fully set forth herein.

1876. The defendant Anheuser-Busch, Inc. stood to profit, monetarily or through increased brand awareness, from its sponsorship of and marketing efforts at the Great White concert at The Station on February 20, 2003.

1877. The defendant Anheuser-Busch, Inc., by and through its marketing and promotional activities, including distribution of specially-prepared beer and tickets to the Great White concert, caused or contributed to the dangerous overcrowding at The Station on February 20, 2003.

1878. The defendant Anheuser-Busch, Inc. provided funding for promotions or paid for promotions for the event, thereby inducing patrons to attend the event.

1879. The defendant Anheuser-Busch, Inc. and/or its agents, servants, or employees, owed a legal duty to the Plaintiffs and is liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting in the injuries of the plaintiff in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities;

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

g) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions;

h) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics; and

i) Attached its name to the event, thereby inducing patrons to attend the event because of the credibility given to the event by use of the name Anheuser-Busch.

1880. As a direct and proximate result thereof, the plaintiff, Catherine Carignan, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1881. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1882. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1883. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1884. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

## CLAIMS AGAINST MCLAUGHLIN & MORAN, INC

## COUNT TWO HUNDRED SEVENTY-THREE
**By Catherine Carignan**
**(Negligence)**

1885. Paragraphs One (1) through One Thousand Eight Hundred Eighty-Four (1,884) are incorporated as if more fully set forth herein.

1886. The defendant McLaughlin & Moran, Inc. stood to profit, monetarily or through increased brand awareness, from its sponsorship of and marketing efforts at the Great White concert at The Station on February 20, 2003.

1887. The defendant McLaughlin & Moran, Inc., by and through its marketing and promotional activities, including distribution of specially-prepared beer and promotional tickets to the Great White concert, caused or contributed to the dangerous overcrowding at The Station on February 20, 2003.

1888. The defendant, McLaughlin & Moran, Inc provided funding for promotions or paid for promotions for the event, thereby inducing patrons to attend the event.

1889. The defendant McLaughlin & Moran, Inc. and/or its agents, servants, or employees, owed a legal duty to the Plaintiffs and is liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to Catherine Carignan in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities;

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

g) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions;

h) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics; and

i) Attached its name to the event, thereby inducing patrons to attend the event because of the credibility given to the event by use of the name McLaughlin & Moran, Inc.

1890. As a direct and proximate result thereof, the plaintiff, Catherine Carignan, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1891. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1892. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1893. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1894. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

## CLAIMS AGAINST CLEAR CHANNEL COMMUNICATIONS, INC. d/b/a WHJY-FM

## COUNT TWO HUNDRED SEVENTY-FOUR
**By Catherine Carignan**
**(Negligence)**

1895. Paragraphs One (1) through One Thousand Eight Hundred Ninety-Four (1,894) are incorporated as if more fully set forth herein.

1896. The defendant Clear Channel Communications, Inc., d/b/a WHJY-FM stood to profit, monetarily or through increased brand awareness, from its sponsorship of and marketing efforts at the Great White concert at The Station on February 20, 2003.

1897. The defendant Clear Channel Communications, Inc., d/b/a WHJY-FM by and through their marketing and promotional activities, including distribution of promotional tickets to the Great White concert, caused or contributed to the dangerous overcrowding at The Station on February 20, 2003.

1898. The defendant, Clear Channel Communications, Inc., d/b/a WHJY-FM provided funding for promotions or paid for promotions for the event, thereby inducing patrons to attend the event.

1899. The defendant Clear Channel Communications, Inc., d/b/a WHJY-FM and/or their agents, servants, or employees, owed a legal duty and are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and damages to Catherine Carignan in one or more of the following respects, in that they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities;

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

g) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions;

h) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics; and

i) Attached its name to the event, thereby inducing patrons to attend the event because of the credibility given to the event by use of the name Clear Channel Communications, Inc., d/b/a WHJY-FM.

1900. As a direct and proximate result thereof, the plaintiff, Catherine Carignan, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1901. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1902. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1903. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1904. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

## CLAIMS AGAINST LUNA TECH, INC AND LUNA TECH PYROTECHNIC GMBH

## COUNT TWO HUNDRED SEVENTY-FIVE
**By Catherine Carignan**
**(Negligence)**

1905. Paragraphs One (1) through One Thousand Forty-Four (2, 045) are incorporated as if more fully set forth herein.

1906. The defendants Luna Tech, Inc. and Luna Tech Pyrotechnic, GMBH, and/or their agents, servants, or employees, owed a legal duty to the Plaintiffs and are liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from sale and use of the pyrotechnics, in one or more of the following respects, in that they:

a) Placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the devices were highly flammable and could not be safely used by bands in night-clubs;

b) Sold said devices to bands and represented that said devices were safe for their intended uses;

c) Failed to provide proper and appropriate warnings to product users;

d) Failed to properly design, manufacture, assemble, test, label, and market the devices;

e) Failed to warn that pyrotechnics could not be safely used in night-clubs or similar spaces where flammable foam insulation or other unsuitable construction material was installed;

f) Said substance was defective and unreasonably dangerous and could not be used without unreasonable risk of injury to the decedent;

g) The warnings and instructions which were given were inadequate and failed to provide sufficient notice to the decedent of the dangerous propensities of said product;

h) The Defendants misrepresented to the decedent and the general public that the substance in question was safe for use by the public;

i) The Defendants failed to disclose to the decedent and the general public the dangerous propensities of said substance;

j) The Defendants were negligent in that they failed to properly and adequately test said product prior to marketing it in that they designed said product in a defective manner;

k) The Defendants were negligent in that they knew or should have known of the dangerous characteristics of said product, yet continued to manufacture and distribute said product;

l) The Defendants were negligent in that they used improper materials in the construction of said product; and

m) The Defendants knew or should have known of the dangerous characteristics of said product, and yet decided to market and continued to market it.

1907. As a direct and proximate result thereof, the plaintiff, Catherine Carignan, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1908. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1909. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1910. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1911. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**COUNT TWO HUNDRED SEVENTY-SIX**
**By Catherine Carignan**
**(Strict Products Liability)**

1912. Paragraphs One (1) through One Thousand Nine Hundred Eleven(1,911) are incorporated as if more fully set forth herein.

1913. The aforesaid product was not altered or modified in any way by the users or any third party from the condition in which it was manufactured and sold.

1914. At all times relevant herein, said substance was expected to and did reach the users without substantial change in condition in which it was sold or manufactured.

1915. The defendants, Luna Tech, Inc. and Luna Tech Pyrotechnic, GMBH is a product seller.

1916. The defendants Luna Tech, Inc. and Luna Tech Pyrotechnic, GMBH, and/or their agents, servants, or employees, are strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that they:

a) Placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the devices were highly flammable and could not be safely used by bands in night-clubs;

b) Sold said devices to bands and represented that said devices were safe for their intended uses;

c) Failed to provide proper and appropriate warnings to product users;

d) Failed to properly design, manufacture, assemble, test, label, and market the devices;

e) Failed to warn that pyrotechnics could not be safely used in night-clubs or similar spaces where flammable foam insulation or other unsuitable construction material was installed;

f) Said substance was defective and unreasonably dangerous and could not be used without unreasonable risk of injury to the decedent;

i) The warnings and instructions which were given were inadequate and failed to provide sufficient notice to the decedent of the dangerous propensities of said product;

h) The Defendants misrepresented to the decedent and the general public that the substance in question was safe for use by the public;

i) The Defendants failed to disclose to the decedent and the general public the dangerous propensities of said substance;

j) Defendants were negligent in that they failed to properly and adequately test said product prior to marketing it in that they designed said product in a defective manner;

k) The Defendants were negligent in that they knew or should have known of the dangerous characteristics of said product, yet continued to manufacture and distribute said product;

l) The Defendants were negligent in that they used improper materials in the construction of said product; and

m) The Defendants knew or should have known of the dangerous characteristics of said product, and yet decided to market and continued to market it.

1917. As a direct and proximate result thereof, the plaintiff, Catherine Carignan, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1918. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1919. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1920. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1921. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

**CLAIMS AGAINST JOINT VENTURE LIABILITY AS TO JEFFREY DERDERIAN, MICHAEL DERDERIAN,AND DERCO LLC D/B/A THE STATION, MANIC MUSIC MANAGEMENT, INC., JACK RUSSELL, MARK KENDALL, DAVID FILICE, ERIC POWERS, DANIEL BICHIELE, PAUL WOOLNOUGH, KNIGHT RECORDS, INC., ANHEUSER-BUSCH, INC., MCLAUGHLIN & MORAN, INC., CLEAR CHANNEL COMMUNICATIONS, INC., d/b/a WHJY-FM, MOTIVA ENTERPRISES, LLC AND SHELL OIL COMPANY AND THE TOWN OF WEST WARWICK AND STATE OF RHODE ISLAND**

**COUNT TWO HUNDRED SEVENTY-SEVEN**
**By Catherine Carignan**
**(Negligence)**

1922. Paragraphs One (1) through One Thousand Nine Hundred Twenty-One (1,921) are incorporated as if more fully set forth herein.

1923. Prior to the Great White concert that occurred on February 20, 2003, the defendants Jeffrey Derderian, Michael Derderian, and DERCO LLC d/b/a The Station, Manic Music Management, Inc., Jack Russell, Mark Kendall, David Filice, Eric Powers, Daniel Bichiele, Paul Woolnough, Knight Records, Inc., Anheuser-Busch, Inc., McLaughlin & Moran, Inc., Clear Channel Communications, Inc., d/b/a WHJY-FM, Motiva Enterprises, LLC and Shell Oil Company and The Town of West Warwick and State of Rhode Island., entered into an express or implied agreement for the common purpose and design of planning, endorsing, sponsoring, promoting, and/or advertising the concert.

1924. The defendants joined and participated in this joint venture for the purpose of pursuing their common business interests and for economic gain.

1925. Each of the participating defendants had a right to voice concerns regarding the event and each controlled certain aspects of the planning, endorsement, sponsorship, promotion, and/or advertising relating to the Great White concert, including but not limited to the selection and inspection of the venue, The Station.

1926. The defendants, and/or their agents, servants, employees and/or contractors acting within the course and scope of their employment or agency, owed a legal duty to the Plaintiffs and are liable and legally responsible for the injuries, damages, and deaths resulting from negligent, careless and/or reckless acts or omissions in planning, endorsing, sponsoring, promoting and/or advertising the Great White concert that occurred on February 20, 2003, in one or more of the following respects:

a) Failed to properly manage, control, supervise and/or inspect The Station night-club prior to and during the Great White concert;

b) Installed or permitted to be installed highly flammable and toxic foam material around the stage of the night-club and failed to ensure that the sound-proofing material was fire resistant, in violation of R.I. Gen. Laws Section 23.28.6-15;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to inspect proper emergency lighting and exit signs that were operable in the event of fire or power outage, in violation of R.I. Gen. Laws Section 23-28.6-13;

f) Failed to adequately inspect The Station for safety hazards, or negligently performed same;

g) Failed to inspect for sprinklers or other fire prevention equipment and apparatus at The Station;

h) Failed to provide adequate exits and failed to inform patrons of The Station of the location of fire exits or require personnel present to do so;

i) Allowed unsafe numbers of persons on the premises during the Great White performance;

j) Allowed The Station to become overcrowded with patrons during performances;

k) Caused or allowed the parking of vehicles in an area around The Station structure so as to impede safe egress in the event of a fire;

l) Caused or allowed uneven floor surfaces in The Station which constituted a tripping hazard;

m) Knew or should have known of the dangerous conditions at The Station and failed to remedy those conditions;

n) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station; and

o) Were otherwise negligent in their selection and/or inspection of the venue for the Great White concert, The Station.

1927. As a direct and proximate result thereof, the plaintiff, Catherine Carignan, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1928. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1929. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1930. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1931. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

## CLAIMS AGAINST SHELL OIL CORPORATION AND MOTIVE ENTERPRISES, LLC

## COUNT TWO HUNDRED SEVENTY-EIGHT
**By Catherine Carignan**
**(Negligence)**

1932. Paragraphs One (1) through One Thousand Nine Hundred Thirty-One (1,931) are hereby incorporated as more fully set forth herein.

1933. Upon information and belief, the defendant, Shell Oil Company, d/b/a Motiva Enterprises, LLC, was the owner/lessor of certain property located at 7380 Post Road, North Kingstown, Rhode Island.

1934. Upon information and belief, defendant DERCO LLC was the manager and lessee of the aforesaid property owned by, the defendant, Shell Oil Company, d/b/a Motiva Enterprises, LLC.

1935. Upon information and belief, the defendant Shell Oil Company dominated, controlled and/or managed the practices, policies and finances of Motiva, LLC and the gas station operation at the 7380 Post Road facility, including but not limited to exercising joint control over the management, inventory, marketing, promotions, and pricing policies

1935. The defendants Shell Oil Company and Motiva Enterprises, LLC owed a legal duty to patrons of The Station because they engaged in the promotion of the Great White performance at The Station by distributing certain tickets in return for certain purchases of its merchandise, which promotion was expressly or impliedly approved by Shell Oil Company and its subsidiary Motiva Enterprises, LLC in negligent disregard for the safety of the anticipated patrons at the performance.

1936. The defendants Shell Oil Company and Motiva Enterprises, LLC endorsed, sponsored, promoted, and/or advertised the Great White concert and stood to profit monetarily these activities and marketing efforts.

1937. Upon information and belief, the defendants Shell Oil Company and Motiva Enterprises, LLC expressly and/or impliedly represented and warranted to the public through its marketing, promotional activities and ticket sales that the venue selected for the show was reasonably safe and would not subject patrons to an unreasonable risk of serious injury or death.

1938. The defendants, Shell Oil Company and Motiva Enterprises, LLC, knew or should have known that, if the venue for the performance did not have adequate fire protection and suppression equipment, that patrons would be subjected to a foreseeable, unreasonable risk of injury or even death.

1939. The defendants, Shell Oil Company and Motiva Enterprises, LLC, knew or should have known that members of the public, including the Injured Plaintiff, were relying on it to exercise proper care, skill and diligence in the review and selection of a safe venue for concerts for which it sold tickets.

1940. The defendants Shell Oil Company and Motiva Enterprises, LLC were negligent and careless in the manner in which they engaged in the promotion of the aforesaid performance, which negligence and carelessness caused the injuries and damages as hereinafter set forth.

1941. The defendants Shell Oil Company and Motiva Enterprises, LLC through its agents, servants, employees or contractors acting within the course and scope of their employment or agency, owed a legal duty to the Plaintiff and Plaintiff's minor child and is liable and legally responsible for negligence in causing injury to the Plaintiff in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the nightclub;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the nightclub in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the nightclub by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities;

f) Failed to properly and adequately review, inspect and approve The Station as a safe venue for members of the public;

g) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

h) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions;

i) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics; and

j) Attached its name to the event, thereby inducing patrons to attend the event because of the credibility given to the event by use of the name Shell Oil.

1942. As a direct and proximate result thereof, the plaintiff, Catherine Carignan, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1943. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1944. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan, lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1945. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1946. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

## CLAIMS AGAINST TOWN OF WEST WARWICK AND FIRE INSPECTOR, DENNIS LAROCQUE

## COUNT TWO HUNDRED SEVENTY-NINE
**By Catherine Carignan**
**(Negligence)**

1947. Paragraphs One (1) through One Thousand Nine Hundred Forty-Seven are hereby incorporated as more fully set forth herein.

1948. The Town of West Warwick and its Fire Inspector, Dennis Larocque, are responsible for the inspection of commercial facilities in the Town of West Warwick and enforcement of the building and fire code laws of the State of Rhode Island.

1949. The Town of West Warwick and Fire Inspector, Dennis Larocque, owed a legal duty to the public in general and the patrons of The Station in particular to exercise reasonable care and due diligence by properly inspecting commercial properties in the Town of West Warwick.

1950. The Town of West Warwick and Fire Inspector, Dennis Larocque, were negligent and careless in failing to properly inspect the Station and enforce the laws of the State of Rhode Island, which negligence and carelessness proximately caused the injuries and damages as hereinafter set forth.

1951. The Town is liable for the negligence of its agents, servants, and employees, and owed a special duty to each Plaintiff.

1952. The Town of West Warwick and Fire Inspector, Dennis Larocque, through its agents, servants, and employees were negligent and careless in one or more of the following ways, in that they:

a) Failed to enforce the building code and fire safety laws of the State of Rhode Island;

b) Failed to adequately inspect The Station;

c) Failed to conduct regular inspections of The Station;

d) Failed to discover and take action for the highly flammable and toxic materials existing on the premises of The Station, which materials should have been discovered by a reasonable inspection;

e) Failed to properly train personnel in fire safety laws, regulations and standards;

f) Failed to require sprinkler systems or other fire prevention devices at The Station;

g) Failed to employ adequate employees and/or personnel to adequately enforce the fire safety laws, regulations and standards;

h) Failed to appropriate adequate funds for the enforcement of fire safety laws, regulations and standards;

i) Knew or should have known of the use of pyrotechnics at The Station and failed to take action to prevent the same when it was unsafe to use pyrotechnics under the circumstances;

j) Failed to enforce Section 23-28-18-4 of the Rhode Island General Laws by failing to ensure that The Station, which provided performances to more than seventy-five (75) people, was free from combustible debris; and

k) Failed to require that The Station limit the number of patrons on the premises to a safe number of patrons.

1953. As a direct and proximate result thereof, the plaintiff, Catherine Carignan, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1954. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1955. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1956. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1957. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

1958. The Fire Inspector, Dennis Larocque, is entitled to indemnity by the Town of West Warwick, pursuant to Section 45-15-16 of the Rhode Island General Laws.

1959. Pursuant to Section 45-15-5 of the Rhode Island General Laws, the Plaintiffs have provided the Town of West Warwick with a valid Notice of Presentment of Claim, and more than forty (40) days have passed since said notice was provided.

**CLAIMS AGAINST STATE OF RHODE ISLAND**
**AND FIRE MARSHAL, IRVING J. OWENS**

**COUNT TWO HUNDRED EIGHTY**
**By Catherine Carignan**
**(Negligence)**

1960. Paragraphs One (1) through One Thousand Nine Hundred Fifty-Nine (1,959)are hereby incorporated as more fully set forth herein.

1961. The State of Rhode Island and its Fire Marshal, Irving J. Owens, are responsible for the inspection of commercial facilities in the Town of West Warwick and enforcement of the building and fire code laws of the State of Rhode Island.

1962. Pursuant to Section 23-28.2-4 of the Rhode Island General Laws, the State of Rhode Island and Fire Marshal, Irving J. Owens, owed a legal duty to the public in general and the patrons of The Station in particular to exercise reasonable care and due diligence by properly inspecting or causing proper inspections commercial properties in the Town of West Warwick, and to enforce and perform the duties required by the Fire Safety Code.

1963. The State and Fire Marshal were negligent and careless in failing to properly inspect the Station and enforce the laws of the State of Rhode Island, which negligence and carelessness proximately caused the injuries and damages as hereinafter set forth.

1964. The State and Fire Marshal are liable for the negligence of its agents, servants, and employees, and owed a special duty to each Plaintiff.

1965. The State and Fire Marshal, through their agents, servants, and employees were negligent and careless in one or more of the following ways, in that they:

a) Failed to enforce the building code and fire safety laws of the State of Rhode Island;

b) Failed to adequately inspect The Station;

c) Failed to conduct regular inspections of The Station;

d) Failed to discover and take action for the highly flammable and toxic materials existing on the premises of The Station, which materials should have been discovered by a reasonable inspection;

e) Failed to properly train personnel in fire safety laws, regulations and standards;

f) Failed to require sprinkler systems or other fire prevention devices at The Station;

g) Failed to employ adequate employees and/or personnel to adequately enforce the fire safety laws, regulations and standards;

h) Failed to appropriate adequate funds for the enforcement of fire safety laws, regulations and standards;

i) Knew or should have known of the use of pyrotechnics at The Station and failed to take action to prevent the same when it was unsafe to use pyrotechnics under the circumstances;

j) Failed to enforce Section 23-28-18-4 of the Rhode Island General Laws by failing to ensure that The Station, which provided performances to more than seventy-five (75) people, was free from combustible debris; and

k) Failed to require that The Station limit the number of patrons on the premises to a safe number of patrons.

1966. As a direct and proximate result thereof, the plaintiff, Catherine Carignan, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

1967. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

1968. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan lost time from her employment, thereby suffering an economic loss, in the form of past and future lost wages. In addition, the plaintiff has suffered an impairment of earning capacity, all to her financial loss.

1969. As a further direct and proximate result thereof, the plaintiff, Catherine Carignan, has and will continue to suffer emotional anxiety including experiencing flash backs and nightmares with thoughts of the burning building.

1970. As a further result of the negligence, carelessness and statutory violations of the defendant as aforesaid, the plaintiff sustained permanent and disfiguring scarring and other permanent injuries, both emotional and physical, the full extent are not yet known.

1971. The Fire Marshal, Irving J. Owens, is entitled to indemnity by the Town of West Warwick pursuant to Section 23-28.2-17 of the Rhode Island General Laws.

1972. Pursuant to Section 45-15-5 of the Rhode Island General Laws, the Plaintiffs have provided the Town of West Warwick with a valid Notice of Presentment of Claim, and more than forty (40) days have passed since said notice was provided.

## CLAIMS AGAINST AMERICAN FOAM

### COUNT TWO HUNDRED EIGHTY ONE

**Edward Corbett, Jr., as Administrator of the Estate of Edward Corbett, III**

1973. Paragraphs One (1) through One Thousand Nine Hundred Seventy-Two (1,972) are incorporated as if more fully set forth herein.

1974. The defendant American Foam Corporation, and/or its agents, servants, or employees, are liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

1975. As a direct and proximate result thereof, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

1976. As a further direct and proximate result thereof, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

1977. As a further direct and proximate result thereof, the death of the plaintiff decedent, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

1978. As a result of his death, the Estate of Edward Corbett, III, incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

**COUNT TWO HUNDRED EIGHTY-TWO**
**By Edward Corbett, Jr., as Administrator**
**by the Estate of Edward Corbett, III**
**(Strict Products Liability)**

1979. Paragraphs One (1) through One Thousand Nine Hundred Seventy-Eight(1,978) are incorporated as if more fully set forth herein.

1980. The defendant American Foam Corporation, and/or its agents, servants, or employees, are strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

1981. As a direct and proximate result thereof, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

1982. As a further direct and proximate result thereof, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

1983. As a further direct and proximate result thereof, the death of the plaintiff decedent, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

1984. As a result of his death, the Estate of Edward Corbett, III, incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

## CLAIMS AGAINST FOAMEX INTERNATIONAL

## COUNT TWO HUNDRED EIGHTY-THREE
**By Edward Corbett, Jr., as Administrator of the Estate of Edward Corbett, III (Negligence)**

1985. Paragraphs One (1) through One Thousand Nine Hundred Eighty-Four(1,985) are incorporated as if more fully set forth herein.

1986. The defendant Foamex International, and/or its agents, servants, or employees, owed a legal duty to the Plaintiffs and are liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

1987. As a direct and proximate result thereof, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

1988. As a further direct and proximate result thereof, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

1989. As a further direct and proximate result thereof, the death of the plaintiff decedent, destroyed his ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to his estate.

1990. As a result of his death, the Estate of Edward Corbett, III. incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

**COUNT TWO HUNDRED EIGHTY FOUR**
**By Edward Corbett, Jr. , as Administrator**
**of the Estate of Edward Corbett, III**
**(Strict Products Liability)**

1991. Paragraphs One (1) through One Thousand Nine Hundred Ninety (1,991) are incorporated as if more fully set forth herein.

1992. The aforesaid product was not altered or modified in any way by the users or any third party from the condition in which it was manufactured and sold.

1993. At all times relevant herein, said substance was expected to and did reach the users without substantial change in condition in which it was sold or manufactured.

1994. The defendant Foamex International is a product seller.

1995. The defendant Foamex International, and/or its agents, servants, or employees, are strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

1996. As a direct and proximate result thereof, plaintiff's decedent suffered excruciating continual mental and physical pain and distress prior to his untimely death and ultimately he died.

1997. As a further direct and proximate result thereof, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

1998. As a further direct and proximate result thereof, the death of the plaintiff decedent, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

1999. As a result of his death, the Estate of Edward Corbett, III, incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

## CLAIMS AGAINST BARRY H. WARNER

## COUNT TWO HUNDRED EIGHTY-FIVE
**By Edward Corbett, Jr., as Administrator of the Estate of Edward Corbett, III (Negligence)**

2000. Paragraphs One (1) through One Thousand Nine Hundred Ninety-Nine(1,999) are incorporated as if more fully set forth herein.

2001. At all times relevant hereto, the defendant Barry H. Warner was employed by American Foam Corporation and was acting in the course and scope of his employment.

2003. Prior to February 20, 2003, the defendant Barry H. Warner sold the foam material to the defendants Jeffery Derderian, Michael Derderian, and/or DERCO, LLC, d/b/a The Station to be used as sound-proofing material at the former Station night-club and represented to said defendants that the foam could be safely and appropriately used as sound-proofing material when he knew or should have known that in fact the foam was highly flammable and toxic and could not be safely used for sound-proofing in a night-club where smoking and use of pyrotechnics was permitted.

2004. The defendant Barry H. Warner is liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) He placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) He represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) He failed to provide proper and appropriate warnings to product users;

d) He knew or should have known of the dangerous propensities of said foamyet sold it with reckless disregard for the safety of the public, including the plaintiff's decedent;

e) He breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose;

f) He breached its express warranty that said foam was safe and effective for use;

g) He provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

h) He failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

i) He failed to provide sound-proofing material that was fire resistant when he knew the intended use of the product;

j) He failed to warn that pyrotechnics could not be safely used in spaces where the foam insulation was installed; and

k) He failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

2005. As a direct and proximate result thereof, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

2006. As a further direct and proximate result thereof, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

2007. As a further direct and proximate result thereof, the death of the plaintiff decedent, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

2008. As a result of his death, the Estate of Edward Corbett, III, incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

**COUNT TWO HUNDRED EIGHTY-SIX**
**By Edward Corbett, Jr., as Administrator**
**of the Estate of Edward Corbett, III**
**(Strict Product Liability)**

2009. Paragraphs (1) through Two Thousand Eight (2,008) are incorporated as if more fully set forth herein.

2010. At all times relevant hereto, the defendant Barry H. Warner was employed by American Foam Corporation and was acting in the course and scope of his employment.

2011. Prior to February 20, 2003, the defendant Barry H. Warner sold the foam material to the defendants Jeffery Derderian, Michael Derderian, and/or DERCO, d/b/a/ The Station, to be used as sound-proofing material at the former Station night-club and represented to said defendants that the foam could be safely and appropriately used as sound-proofing material when he knew or should have known that in fact the foam was highly flammable and toxic and could not be safely used for sound-proofing in a night-club where smoking and use of pyrotechnics was permitted.

2012. The defendant Barry H. Warner is strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) He placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) He represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) He failed to provide proper and appropriate warnings to product users;

d) He knew or should have known of the dangerous propensities of said foam yet sold it with reckless disregard for the safety of the public, including the plaintiff's decedent;

e) He breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose;

f) He breached its express warranty that said foam was safe and effective for use;

g) He provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

h) He failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

i) He failed to provide sound-proofing material that was fire resistant when he knew the intended use of the product;

j) He failed to warn that pyrotechnics could not be safely used in spaces where the foam insulation was installed; and

k) He failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

2013. As a direct and proximate result thereof, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

2014. As a further direct and proximate result thereof, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the

enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

2015. As a further direct and proximate result thereof, the death of the plaintiff decedent, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

2016. As a result of his death, the Estate of Edward Corbett, III, incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

**CLAIMS AGAINST JEFFREY DERDERIAN, MICHAEL DERDERIAN, AND DERCO, LLC, d/b/a THE STATION**

**COUNT TWO HUNDRED EIGHTY-SEVEN**
**By Edward Corbett, Jr., as Administrator of the Estate of Edward Corbett, III**
**(Negligence)**

2017 Paragraphs One (1) through Two Thousand Sixteen (2,016) are incorporated as if more fully set forth herein.

2018. The defendants Jeffrey Derderian, Michael Derderian, and/or DERCO, LLC, d/b/a The Station and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting death of Mr. Corbett, III, in one or more of the following respects, in that they:

a) Failed to properly manage, control, supervise and/or inspect The Station night-club prior to and during the Great White concert;

b) Installed highly flammable and toxic foam material around the stage of the night-club and failed to ensure that the sound-proofing material was fire resistant, in violation of R.I. Gen. Laws Section 23.28.6-15;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to install, maintain, or inspect proper emergency lighting and exit signs that were operable in the event of fire or power outage, in violation of R.I. Gen. Laws Section 23-28.6-13;

f) Failed to adequately inspect The Station for safety hazards;

g) Failed to install sprinklers or other fire prevention apparatus at The Station;

h) Failed to provide adequate exits and failed to inform patrons of The Station of the location of fire exits or require personnel present to do so;

i) Allowed unsafe numbers of persons on the premises during the Great White performance;

j) Allowed The Station to become overcrowded with patrons during performances;

k) Caused or allowed the parking of vehicles in an area around The Station structure so as to impede safe egress in the event of a fire;

l) Caused or allowed uneven floor surfaces in The Station which constituted a tripping hazard;

m) Knew or should have known of the dangerous conditions at The Station and failed to remedy those conditions; and

n) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

2019. As a result of the negligence, carelessness and statutory violations of said defendants, as aforesaid, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

2020. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

2021. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the death of the plaintiff decedent, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

2022. As a result of his death, the Estate of Edward Corbett, III, incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

## CLAIMS AGAINST MANIC MUSIC MANAGEMENT, INC

### COUNT TWO HUNDRED EIGHTY-EIGHT

**By Edward Corbett, Jr., as Administrator of the Estate of Edward Corbett, III (Negligence)**

2023. Paragraphs One (1) through Two Thousand Twenty-Two(2,022) are incorporated as if more fully set forth herein.

2024. The defendant Manic Music Management, Inc. and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting death of Mr. Corbett, III, in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3; and

e) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

2025. As a result of the negligence, carelessness and statutory violations of said defendant, as aforesaid, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

2026. As a further result of the negligence, carelessness, and statutory violations of the defendant, as aforesaid, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

2027. As a further result of the negligence, carelessness, and statutory violations of the defendant, as aforesaid, the death of the plaintiff decedent, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

2028. As a result of his death, the Estate of Edward Corbett, III incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

## CLAIMS AGAINST JACK RUSSELL, MARK KENDALL, DAVID FILICE ERIC POWERS, a/k/a GREAT WHITE

## COUNT TWO HUNDRED EIGHTY-NINE

**By Edward Corbett, Jr., as Administrator of the Estate of Edward Corbett, III (Negligence)**

2029. Paragraphs One (1) through Two Thousand Twenty Eight (2,028) are incorporated as if more fully set forth herein.

2030. The defendants Jack Russell, Mark Kendall, David Filice, Eric Powers, and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting death of Mr. Corbett, III in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3; and

e) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

2031. As a result of the negligence, carelessness and statutory violations of said defendants, as aforesaid, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

2032. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

2033. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the death of the plaintiff decedent, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

2032. As a result of his death, the Estate of Edward Corbett, III incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

## CLAIMS AGAINST DANIEL BICHELE

## COUNT TWO HUNDRED NINETY
**By Edward Corbett, Jr., as Administrator of the Estate of Edward Corbett, III (Negligence)**

2033. Paragraphs One (1) through Two Thousand Thirty Two (2,033) are incorporated as if more fully set forth herein.

2034. The defendant Daniel Bichele and/or his agents, servants, or employees, is liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting death of Mr. Corbett, III in one or more of the following respects, in that he or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Negligently activated dangerous pyrotechnic devices in an overcrowded night-club where it could easily ignite toxic flammable sound-proofing insulation on the walls and ceiling; and

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

2035. As a result of the negligence, carelessness and statutory violations of said defendant, as aforesaid, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

2036. As a further result of the negligence, carelessness, and statutory violations of the defendant, as aforesaid, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

2037. As a further result of the negligence, carelessness, and statutory violations of the defendant, as aforesaid, the death of the plaintiff decedent, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

2038. As a result of his death, the Estate of Edward Corbett, III incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

**CLAIMS AGAINST PAUL WOOLNOUGH, AND KNIGHT RECORDS, INC**

**COUNT TWO HUNDRED NINTY-ONE**
**By Edward Corbett, Jr., as Administrator of the Estate of Edward Corbett, III (Negligence)**

2039. Paragraphs One (1) through Two Thousand Thirty-Eight (2,038) are incorporated as if more fully set forth herein.

2040. The defendants Paul Woolnough and/or Knight Records, Inc. and/or his or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting death of Mr. Edward Corbett, III in one or more of the following respects, in that he or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Negligently activated dangerous pyrotechnic devices in an overcrowded night-club where it could easily ignite toxic flammable sound-proofing insulation on the walls and ceiling; and

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

2041. As a result of the negligence, carelessness and statutory violations of said defendants, as aforesaid, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

2042. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

2043. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the death of the plaintiff decedent, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

2044. As a result of his death, the Estate of Edward Corbett, III incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

## CLAIMS AGAINST ANHEUSER-BUSCH, INC

## COUNT TWO HUNDRED NINETY TWO
**By Edward Corbett, Jr., as Administrator**
**of the Estate of Edward Corbett, III**
**(Negligence)**

2045. Paragraphs One (1) through Two Thousand Forty-Four(2,044) are incorporated as if more fully set forth herein.

2046. The defendant Anheuser-Busch, Inc. stood to profit, monetarily or through increased brand awareness, from its sponsorship of and marketing efforts at the Great White concert at The Station on February 20, 2003.

2047. The defendant Anheuser-Busch, Inc., by and through its marketing and promotional activities, including distribution of specially-prepared beer and tickets to the Great White concert, caused or contributed to the dangerous overcrowding at The Station on February 20, 2003.

2048. The defendant Anheuser-Busch, Inc. and/or its agents, servants, or employees, is liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting death of Mr. Edward Corbett, III in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities; and

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

2049. As a result of the negligence, carelessness and statutory violations of said defendants, as aforesaid, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

2050. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

2051. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the death of the plaintiff decedent, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

2052. As a result of his death, the Estate of Edward Corbett, III incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

## CLAIMS AGAINST MCLAUGHLIN & MORAN, INC.

### COUNT TWO HUNDRED NINETY-THREE
**By Edward Corbett, Jr., as Administrator**
**of the Estate of Edward Corbett, III**
**(Negligence)**

2053. Paragraphs One (1) through Two Thousand Fifty-Two (2,052) are incorporated as if more fully set forth herein.

2054. The defendant McLaughlin & Moran, Inc. stood to profit, monetarily or through increased brand awareness, from its sponsorship of and marketing efforts at the Great White concert at The Station on February 20, 2003.

2055. The defendant McLaughlin & Moran, Inc., by and through its marketing and promotional activities, including distribution of specially-prepared beer and promotional tickets to the Great White concert, caused or contributed to the dangerous overcrowding at The Station on February 20, 2003.

2056. The defendant McLaughlin & Moran, Inc. and/or its agents, servants, or employees, is liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting death of Mr. Corbett, III in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities; and

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

2057. As a result of the negligence, carelessness and statutory violations of said defendants, as aforesaid, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

2058. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

2059. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the death of the plaintiff decedent, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

2060. As a result of his death, the Estate of Edward Corbett, III incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

**CLAIMS AGAINST CLEAR CHANNEL COMMUNICATIONS, INC**
**d/b/a WHJY-FM**

**COUNT TWO HUNDRED NINETY-FOUR**
**By Edward Corbett, Jr., as Administrator**
**of the Estate of Edward Corbett, III**
**(Negligence)**

2061. Paragraphs One (1) through Two Thousand Sixty(2,060) are incorporated as if more fully set forth herein.

2062. The defendant Clear Channel Communications, Inc., d/b/a WHJY-FM stood to profit, monetarily or through increased brand awareness, from its sponsorship of and marketing efforts at the Great White concert at The Station on February 20, 2003.

2063. The defendant Clear Channel Communications, Inc., d/b/a WHJY-FM by and through their marketing and promotional activities, including distribution of promotional tickets to the Great White concert, caused or contributed to the dangerous overcrowding at The Station on February 20, 2003.

2064. The defendant Clear Channel Communications, Inc.d/b/a WHJY-FM and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting death of Mr. Corbett, III in one or more of the following respects, in that they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities; and

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

2065. As a result of the negligence, carelessness and statutory violations of said defendant, as aforesaid, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

2066. As a further result of the negligence, carelessness, and statutory violations of the defendant, as aforesaid, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

2067. As a further result of the negligence, carelessness, and statutory violations of the defendant, as aforesaid, the death of the plaintiff decedent, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

2068. As a result of his death, the Estate of Edward Corbett, III incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

## CLAIMS AGAINST LUNA TECH, INC. AND LUNA TECH PYROTECHNIC, GMBH

## COUNT TWO HUNDRED NINETY-FIVE

**By Edward Corbett, Jr., as Administrator of the Estate of Edward Corbett, III (Negligence)**

2069. Paragraphs One (1) through Two Thousand Sixty-Eight(2,069) are incorporated as if more fully set forth herein.

2070. The defendants Luna Tech, Inc. and Luna Tech Pyrotechnic, GMBH, and/or their agents, servants, or employees, are liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from sale and use of the pyrotechnics product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the devices were highly flammable and could not be safely used by bands in night-clubs;

b) They sold said devices to bands and represented that said devices were safe for their intended uses;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the devices; and

e) They failed to warn that pyrotechnics could not be safely used in night-clubs or similar spaces where flammable foam insulation was installed;

2071. As a direct and proximate result thereof, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

2072. As a further direct and proximate result thereof, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

2073. As a further direct and proximate result thereof, the death of the plaintiff decedent, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

2074. As a result of his death, the Estate of Edward Corbett, III incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

**COUNT TWO HUNDRED NINETY-SIX**
**By Edward Corbett, Jr., as Administrator**
**of the Estate of Edward Corbett, III**
**(Strict Products Liability)**

2075. Paragraphs One (1) through Two Thousand Seventy-Four (2,074) are incorporated as if more fully set forth herein.

2076. The defendants Luna Tech, Inc. and Luna Tech Pyrotechnic, GMBH, and/or their agents, servants, or employees, are strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale, use and manufacturing of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the devices were highly flammable and could not be safely used by bands in night-clubs;

b) They sold said devices to bands and represented that said devices were safe for their intended uses;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the devices; and

e) They failed to warn that pyrotechnics could not be safely used in night-clubs or similar spaces where flammable foam insulation was installed;

2077. As a direct and proximate result thereof, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

2078. As a further direct and proximate result thereof, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the

enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

2079. As a further direct and proximate result thereof, the death of the plaintiff decedent, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

2080. As a result of his death, the Estate of Edward Corbett, III incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

**CLAIMS AGAINST JOINT VENTURE LIABILITY AS TO JEFFREY DERDERIAN, MICHAEL DERDERIAN, AND DERCO LLC D/B/A THE STATION, MANIC MUSIC MANAGEMENT, INC., JACK RUSSELL, MARK KENDALL, DAVID FILICE, ERIC POWERS, DANIEL BICHIELE, PAUL WOOLNOUGH, KNIGHT RECORDS, INC., ANHEUSER- BUSCH, INC., MCLAUGHLIN & MORAN, INC., CLEAR CHANNEL COMMUNICATIONS, INC. D/B/A WHJY-FM MOTIVA ENTERPRISES, LLC AND SHELL OIL COMPANY, TOWN OF WEST WARWICK, DENNIS LAROCQUE, STATE OF RHODE ISLAND AND IRVING J. OWENS**

**COUNT TWO HUNDRED NINTY-SEVEN**
**By Edward Corbett, Jr. , as Co-Administrator**
**of the Estate of Edward Corbett, III**
**(Negligence)**

2081. Paragraphs One (1) through Two Thousand Eighty-One (2,081) are incorporated as if more fully set forth herein.

2082. Prior to the Great White concert that occurred on February 20, 2003, the defendants Jeffrey Derderian, Michael Derderian, and DERCO LLC d/b/a The Station, Manic Music Management, Inc., Jack Russell, Mark Kendall, David Filice, Eric Powers, Daniel Bichiele, Paul Woolnough, Knight Records, Inc., Anheuser-Busch, Inc., McLaughlin & Moran, Inc., Clear Channel Communications, Inc., d/b/a WHJY-FM, and Motiva Enterprises, LLC and Shell Oil Company, Town of West Warwick, Dennis Larocque, State of Rhode Island and Irving J. Owens, entered into an express or implied agreement for the common purpose and design of planning, endorsing, sponsoring, promoting, and/or advertising the concert.

2083. The defendants joined and participated in this joint venture for the purpose of pursuing their common business interests and for economic gain.

2084. Each of the participating defendants had a right to voice concerns regarding the event and each controlled certain aspects of the planning, endorsement, sponsorship, promotion, and/or advertising relating to the Great White concert, including but not limited to the selection and inspection of the venue, The Station.

2085. The defendants, and/or their agents, servants, employees and/or contractors acting within the course and scope of their employment or agency, owed a legal duty to the Plaintiffs and are liable and legally responsible for the injuries, damages, and deaths resulting from negligent, careless and/or reckless acts or omissions in planning, endorsing, sponsoring, promoting and/or advertising the Great White concert that occurred on February 20, 2003, in one or more of the following respects:

a) Failed to properly manage, control, supervise and/or inspect The Station night-club prior to and during the Great White concert;

b) Installed or permitted to be installed highly flammable and toxic foam material around the stage of the night-club and failed to ensure that the sound-proofing material was fire resistant, in violation of R.I. Gen. Laws Section 23.28.6-15;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to inspect proper emergency lighting and exit signs that were operable in the event of fire or power outage, in violation of R.I. Gen. Laws Section 23-28.6-13;

f) Failed to adequately inspect The Station for safety hazards, or negligently performed same;

g) Failed to inspect for sprinklers or other fire prevention equipment and apparatus at The Station;

h) Failed to provide adequate exits and failed to inform patrons of The Station of the location of fire exits or require personnel present to do so;

i) Allowed unsafe numbers of persons on the premises during the Great White performance;

j) Allowed The Station to become overcrowded with patrons during performances;

k) Caused or allowed the parking of vehicles in an area around The Station structure so as to impede safe egress in the event of a fire;

l) Caused or allowed uneven floor surfaces in The Station which constituted a tripping hazard;

m) Knew or should have known of the dangerous conditions at The Station and failed to remedy those conditions;

n) Failed to protect the decedent and other members of the public from the foreseeable risk of se

o) Were otherwise negligent in their selection and/or inspection of the venue for the Great White concert, The Station.

2086. As a result of the negligence, carelessness and statutory violations of said defendants, as aforesaid, the Plaintiff's Decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

2087. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the Plaintiff's Decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

2088. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the death of the Plaintiff Decedent, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

2089. As a result of his death, the Estate of Edward Corbett, III has incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

**CLAIMS AGAINST SHELL OIL CORPORATION AND MOTIVE ENTERPRISES, LLC**

**COUNT TWO HUNDRED NINETY-EIGHT**
**By Edward Corbett, Jr., as Administrator**
**by Estate of Edward Corbett, III**

2090. Paragraphs One (1) through Two Thousand Eighty-Nine (2,089) are hereby incorporated as more fully set forth herein.

2091. Upon information and belief, the defendant, Shell Oil Company, d/b/a Motiva Enterprises, LLC, was the owner/lessor of certain property located at 7380 Post Road, North Kingstown, Rhode Island.

2092. Upon information and belief, defendant DERCO LLC was the manager and lessee of the aforesaid property owned by, the defendant, Shell Oil Company, d/b/a Motiva Enterprises, LLC.

2093. Upon information and belief, the defendant Shell Oil Company dominated, controlled and/or managed the practices, policies and finances of Motiva, LLC and the gas station operation at the 7380 Post Road facility, including but not limited to exercising joint control over the management, inventory, marketing, promotions, and pricing policies

2094. The defendants Shell Oil Company and Motiva Enterprises, LLC owed a legal duty to patrons of The Station because they engaged in the promotion of the Great White performance at The Station by distributing certain tickets in return for certain purchases of its merchandise, which promotion was expressly or impliedly approved by Shell Oil Company and its subsidiary Motiva Enterprises, LLC in negligent disregard for the safety of the anticipated patrons at the performance.

2095. The defendants Shell Oil Company and Motiva Enterprises, LLC endorsed, sponsored, promoted, and/or advertised the Great White concert and stood to profit monetarily these activities and marketing efforts.

2096. Upon information and belief, the defendants Shell Oil Company and Motiva Enterprises, LLC expressly and/or impliedly represented and warranted to the public through its marketing, promotional activities and ticket sales that the venue selected for the show was reasonably safe and would not subject patrons to an unreasonable risk of serious injury or death.

2097. The defendants, Shell Oil Company and Motiva Enterprises, LLC, knew or should have known that, if the venue for the performance did not have adequate fire protection and suppression equipment, that patrons would be subjected to a foreseeable, unreasonable risk of injury or even death.

2098. The defendants, Shell Oil Company and Motiva Enterprises, LLC, knew or should have known that members of the public, including the Plaintiff's Decedent, were relying on it to exercise proper care, skill and diligence in the review and selection of a safe venue for concerts for which it sold tickets.

2099. The defendants Shell Oil Company and Motiva Enterprises, LLC were negligent and careless in the manner in which they engaged in the promotion of the aforesaid performance, which negligence and carelessness caused the injuries and damages as hereinafter set forth.

2100 The defendants Shell Oil Company and Motiva Enterprises, LLC through its agents, servants, employees or contractors acting within the course and scope of their employment or agency, owed a legal duty to the Plaintiff and is liable and legally responsible for negligence in causing the death of the Plaintiff's Decedent in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the nightclub;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the nightclub in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the nightclub by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities;

f) Failed to properly and adequately review, inspect and approve The Station as a safe venue for members of the public;

g) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

h) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions;

i) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics; and

j) Attached its name to the event, thereby inducing patrons to attend the event because of the credibility given to the event by use of the name Shell Oil.

2101. As a result of the negligence, carelessness and statutory violations of said defendants, as aforesaid, the Plaintiff's Decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

2102. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the Plaintiff's Decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

2103. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the death of the Plaintiff's Decedent, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

2104. As a result of his death, the Estate of Edward Corbett, III incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

**CLAIM AGAINST TOWN OF WEST WARWICK AND FIRE INSPECTOR, DENNIS LAROCQUE**

**COUNT TWO HUNDRED NINETY-NINE**
**By Edward Corbett, Jr., as Administrator of the Estate of Edward Corbett, III**
**(Negligence)**

2105. Paragraphs One (1) through Two Thousand One Hundred Four(2,104) are hereby incorporated as more fully set forth herein.

2106. The Town of West Warwick and its Fire Inspector, Dennis Larocque, are responsible for the inspection of commercial facilities in the Town of West Warwick and enforcement of the building and fire code laws of the State of Rhode Island.

2107. The Town of West Warwick and Fire Inspector, Dennis Larocque, owed a legal duty to the public in general and the patrons of The Station in particular to exercise reasonable care and due diligence by properly inspecting commercial properties in the Town of West Warwick.

2108. The Town of West Warwick and Fire Inspector, Dennis Larocque, were negligent and careless in failing to properly inspect the Station and enforce the laws of the State of Rhode Island, which negligence and carelessness proximately caused the injuries and damages as hereinafter set forth.

2109. The Town is liable for the negligence of its agents, servants, and employees, and owed a special duty to each Plaintiff.

2110. The Town of West Warwick and Fire Inspector, Dennis Larocque, through its agents, servants, and employees were negligent and careless in one or more of the following ways, in that they:

a) Failed to enforce the building code and fire safety laws of the State of Rhode Island;

b) Failed to adequately inspect The Station;

c) Failed to conduct regular inspections of The Station;

d) Failed to discover and take action for the highly flammable and toxic materials existing on the premises of The Station, which materials should have been discovered by a reasonable inspection;

e) Failed to properly train personnel in fire safety laws, regulations and standards;

f) Failed to require sprinkler systems or other fire prevention devices at The Station;

g) Failed to employ adequate employees and/or personnel to adequately enforce the fire safety laws, regulations and standards;

h) Failed to appropriate adequate funds for the enforcement of fire safety laws, regulations and standards;

i) Knew or should have known of the use of pyrotechnics at The Station and failed to take action to prevent the same when it was unsafe to use pyrotechnics under the circumstances;

j) Failed to enforce Section 23-28-18-4 of the Rhode Island General Laws by failing to ensure that The Station, which provided performances to more than seventy-five (75) people, was free from combustible debris; and

k) Failed to require that The Station limit the number of patrons on the premises to a safe number of patrons.

2111. As a result of the negligence, carelessness and statutory violations of said defendants, as aforesaid, the Plaintiff's Decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

2112. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the Plaintiff's Decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

2113. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the death of the Plaintiff's Decedent, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

2114. As a result of his death, the Estate of Edward Corbett, III incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

2115. The Fire Inspector, Dennis Larocque, is entitled to indemnity by the Town of West Warwick, pursuant to Section 45-15-16 of the Rhode Island General Laws.

2116. Pursuant to Section 45-15-5 of the Rhode Island General Laws, the Plaintiffs have provided the Town of West Warwick with a valid Notice of Presentment of Claim, and more than forty (40) days have passed since said notice was provided.

## CLAIMS AGAINST STATE OF RHODE ISLAND AND FIRE MARSHAL, IRVIN J. OWENS

### COUNT THREE HUNDRED

**By Edward Corbett, Jr., as Administrator of the Estate of Edward Corbett, III**

2117. Paragraphs One (1) through Two Thousand One Hundred Sixteen (2,116) are hereby incorporated as more fully set forth herein.

2118. The State of Rhode Island and its Fire Marshal, Irving J. Owens, are responsible for the inspection of commercial facilities in the Town of West Warwick and enforcement of the building and fire code laws of the State of Rhode Island.

2119. Pursuant to Section 23-28.2-4 of the Rhode Island General Laws, the State of Rhode Island and Fire Marshal, Irving J. Owens, owed a legal duty to the public in general and the patrons of The Station in particular to exercise reasonable care and due diligence by properly inspecting or causing proper inspections commercial properties in the Town of West Warwick, and to enforce and perform the duties required by the Fire Safety Code.

2120. The State and Fire Marshal were negligent and careless in failing to properly inspect the Station and enforce the laws of the State of Rhode Island, which negligence and carelessness proximately caused the injuries and damages as hereinafter set forth.

2121. The State and Fire Marshal are liable for the negligence of its agents, servants, and employees, and owed a special duty to each Plaintiff.

2122. The State and Fire Marshal, through their agents, servants, and employees were negligent and careless in one or more of the following ways, in that they:

a) Failed to enforce the building code and fire safety laws of the State of Rhode Island;

b) Failed to adequately inspect The Station;

c) Failed to conduct regular inspections of The Station;

d) Failed to discover and take action for the highly flammable and toxic materials existing on the premises of The Station, which materials should have been discovered by a reasonable inspection;

e) Failed to properly train personnel in fire safety laws, regulations and standards;

f) Failed to require sprinkler systems or other fire prevention devices at The Station;

g) Failed to employ adequate employees and/or personnel to adequately enforce the fire safety laws, regulations and standards;

h) Failed to appropriate adequate funds for the enforcement of fire safety laws, regulations and standards;

i) Knew or should have known of the use of pyrotechnics at The Station and failed to take action to prevent the same when it was unsafe to use pyrotechnics under the circumstances;

j) Failed to enforce Section 23-28-18-4 of the Rhode Island General Laws by failing to ensure that The Station, which provided performances to more than seventy-five (75) people, was free from combustible debris; and

k) Failed to require that The Station limit the number of patrons on the premises to a safe number of patrons.

2123. As a result of the negligence, carelessness and statutory violations of said defendants, as aforesaid, the Plaintiff's Decedent suffered excruciating and continual mental and physical pain and distress prior to his untimely death and ultimately he died.

2124. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the Plaintiff's Decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which he would have otherwise been able to enjoy and in which he would have participated.

2125. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the death of the Plaintiff's Decedent, who was a thirty-five (35) year-old man, destroyed his ability to earn income and enjoy his family and friends, resulting in substantial loss and damage to his estate.

2126. As a result of her death, the Estate of Edward Corbett, III, incurred medical and funeral and burial expenses, as well as the cost of administering his estate.

2127. The Fire Marshal, Irving J. Owens, is entitled to indemnity by the Town of West Warwick pursuant to Section 23-28.2-17 of the Rhode Island General Laws.

2128. Pursuant to Section 45-15-5 of the Rhode Island General Laws, the Plaintiffs have provided the Town of West Warwick with a valid Notice of Presentment of Claim, and more than forty (40) days have passed since said notice was provided.

## CLAIMS AGAINST AMERICAN FOAM

## COUNT THREE HUNDRED ONE
**By Paul and Betty Roe, as Co-Administrators of the Estate of Lori K. Durante (Negligence)**

2129. Paragraphs One (1) through Two Thousand One Hundred Twenty Eight (2,128) are incorporated as if more fully set forth herein.

2130. The defendant American Foam Corporation, and/or its agents, servants, or employees, are liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g). They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

2131. As a direct and proximate result thereof, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to her untimely death and ultimately she died.

2132. As a further direct and proximate result thereof, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which she would have otherwise been able to enjoy and in which she would have participated.

2133. As a further direct and proximate result thereof, the death of the plaintiff decedent, who was a forty (40) year-old woman, destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

2134. As a result of her death, the Estate of Lori Durante incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

**COUNT THREE HUNDRED TWO**
**By Paul and Betty Roe, Individually**
**for Loss of Consortium**
**(Negligence)**

2135. Paragraphs One (1) through Two Thousand One Hundred Thirty-Four (2,134) are incorporated as if more fully set forth herein.

2136. As a result of the use and sale of the foam, as aforesaid, the Plaintiffs, Paul and Betty Roe, parents of the Plaintiff Decedent, were and will in the future be deprived of the support, services, care, society, affection, companionship and consortium of the Plaintiff Decedent.

**COUNT THREE HUNDRED THREE**
**By Paul and Betty Roe, as Co-Administrators**
**to the Estate of Lori K. Durante**
**(Strict Products Liability)**

2137. Paragraphs One (1) through Two Thousand One Hundred Thirty Six (2,136) are incorporated as if more fully set forth herein.

2138. The defendant American Foam Corporation, and/or its agents, servants, or employees, are strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

2123. As a direct and proximate result thereof, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to her untimely death and ultimately she died.

2139. As a further direct and proximate result thereof, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which she would have otherwise been able to enjoy and in which she would have participated.

2140. As a further direct and proximate result thereof, the death of the plaintiff decedent, who was a forty (40) year-old woman, destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

2141. As a result of her death, the Estate of Lori Durante incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

**COUNT THREE HUNDRED FOUR**
**By Paul and Betty Roe, Individually**
**for Loss of Consortium**
**(Strict Products Liability)**

2141. Paragraphs One (1) through Two Thousand One Hundred Thirty- (2,13 ) are incorporated as if more fully set forth herein.

2142. As a result of the use and sale of the foam as aforesaid, the Plaintiffs, Paul Roe and Betty Roes, parents of the Plaintiff Decedent, was and will in the future be deprived of the financial support, services, care, society, affection, companionship and consortium of the Plaintiff Decedent.

## CLAIMS AGAINST FOAMEX INTERNATIONAL

## COUNT THREE HUNDRED FIVE
**By Paul and Betty Roe, as Co-Administrators to the Estate of Lori K. Durante (Negligence)**

2143. Paragraphs One (1) through Two Thousand One Hundred Fourty-Two(2,142) are hereby incorporated as if fully set forth herein.

2144. The defendant, Foamex International, and/or its agents, servants, or employees, owed a legal duty to the Plaintiffs and are liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from manufacturing, sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

2145. As a direct and proximate result thereof, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to her untimely death and ultimately she died.

2146. As a further direct and proximate result thereof, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which she would have otherwise been able to enjoy and in which she would have participated.

2147. As a further direct and proximate result thereof, the death of the plaintiff decedent, who was a forty (40) year-old woman, destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

2148. As a result of her death, the Estate of Lori Durante incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

**COUNT THREE HUNDRED SIX**
**By Paul and Betty Roe, Individually**
**for Loss of Consortium**

2149. Paragraphs One (1) through Two Thousand One Hundred Forty-Eight (2,148) are incorporated as if more fully set forth herein.

2150. As a result of the manufacturing, sale and use of the foam, as aforesaid, the Plaintiffs, Paul and Betty Roe, parents of the Plaintiff Decedent, were and will in the future be deprived of the support, services, care, society, affection, companionship and consortium of the Plaintiff Decedent.

**COUNT THREE HUNDRED SEVEN**
**By Paul and Betty Roe, as Co-Administrators**
**to the Estate of Lori K. Durante**
**(Strict Products Liability)**

2151. Paragraphs One (1) through Two Thousand One Hundred Thirty- (213 ) are hereby incorporated as if fully set forth herein.

2152. The aforesaid product was not altered or modified in any way by the users or any third party from the condition in which it was manufactured and sold.

2153. At all times relevant herein, said substance was expected to and did reach the users without substantial change in condition in which it was sold or manufactured.

2154. The defendant, Foamex International, is a product seller.

2155. The defendant, Foamex International, and/or its agents, servants, or employees, are strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

2156. As a direct and proximate result thereof, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to her untimely death and ultimately she died.

2157. As a further direct and proximate result thereof, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which she would have otherwise been able to enjoy and in which she would have participated.

2158. As a further direct and proximate result thereof, the death of the plaintiff decedent, who was a forty (40) year-old woman, destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

2159. As a result of her death, the Estate of Lori Durante incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

**COUNT THREE HUNDRED EIGHT**
**By Paul and Betty Roe, Individually**
**for Loss of Consortium**
**(Strict Products Liability)**

2160. Paragraphs One (1) through Two Thousand One Hundred Fifty-Nine (2,159) are incorporated as if more fully set forth herein.

2161. As a result of the manufacturing, sale and use of the foam, as aforesaid, the Plaintiffs, Paul and Betty Roe, parents of the Plaintiff Decedent, were and will in the future be deprived of the support, services, care, society, affection, companionship and consortium of the Plaintiff Decedent.

## CLAIMS AGAINST BARRY H.WARNER

### COUNT THREE HUNDRED NINE
**By Paul and Betty Roe, as Co-Administrators of the Estate of Lori K. Durante (Negligence)**

2162. Paragraphs One (1) through Two Thousand One Hundred Twenty-Seven (2,128) are incorporated as if more fully set forth herein.

2163. At all times relevant hereto, the defendant Barry H. Warner was employed by American Foam Corporation and was acting in the course and scope of her employment.

2164. Prior to February 20, 2003, the defendant Barry H. Warner sold the foam material to the defendants Jeffery Derderian, Michael Derderian, and/or DERCO, LLC, d/b/a The Station to be used as sound-proofing material at the former Station night-club and represented to said defendants that the foam could be safely and appropriately used as sound-proofing material when he knew or should have known that in fact the foam was highly flammable and toxic and could not be safely used for sound-proofing in a night-club where smoking and use of pyrotechnics was permitted.

2165. The defendant Barry H. Warner is liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) He placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) He represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) He failed to provide proper and appropriate warnings to product users;

d) He knew or should have known of the dangerous propensities of said foam yet sold it with reckless disregard for the safety of the public, including the plaintiff's decedent;

e) He breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose;

f) He breached its express warranty that said foam was safe and effective for use;

g) He provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

h) He failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

i) He failed to provide sound-proofing material that was fire resistant when he knew the intended use of the product;

j) He failed to warn that pyrotechnics could not be safely used in spaces where the foam insulation was installed; and

k) He failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

2166. As a direct and proximate result thereof, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to her untimely death and ultimately she died.

2167. As a further direct and proximate result thereof, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which she would have otherwise been able to enjoy and in which she would have participated.

2168. As a further direct and proximate result thereof, the death of the plaintiff decedent, who was a forty (40) year-old woman, destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

2169. As a result of her death, the Estate of Lori Durante incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

**COUNT THREE HUNDRED TEN**
**By Paul and Betty Roe, Individually**
**for Loss of Consortium**
**(Negligence)**

2170. Paragraphs One (1) through Two Thousand One Hundred Sixty-Nine (2,169) are incorporated as if more fully set forth herein.

2171. As a result of the sale and use of the foam, as aforesaid, the Plaintiffs, Paul and Betty Roe, parents of the Plaintiff Decedent, were and will in the future be deprived of the support, services, care, society, affection, companionship and consortium of the Plaintiff Decedent.

**COUNT THREE HUNDRED ELEVEN**
**By Paul and Betty Roe, as Co-Administrators**
**to the Estate of Lori K. Durante**

2172. Paragraphs One (1) through Two Thousand One Hundred Seventy-One (2,171) are incorporated as if more fully set forth herein.

2173. At all times relevant hereto, the defendant Barry H. Warner was employed by American Foam Corporation and was acting in the course and scope of her employment.

2174. Prior to February 20, 2003, the defendant Barry H. Warner sold the foam material to the defendants Jeffery Derderian, Michael Derderian, and/or DERCO, d/b/a/ The Station, to be used as sound-proofing material at the former Station night-club and represented to said defendants that the foam could be safely and appropriately used as sound-proofing material when he knew or should have known that in fact the foam was highly flammable and toxic and could not be safely used for sound-proofing in a night-club where smoking and use of pyrotechnics was permitted.

2175. The defendant Barry H. Warner is strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) He placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) He represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) He failed to provide proper and appropriate warnings to product users;

d) He knew or should have known of the dangerous propensities of said foam yet sold it with reckless disregard for the safety of the public, including the plaintiff's decedent;

e) He breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose;

f) He breached its express warranty that said foam was safe and effective for use;

g) He provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

h) He failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

i) He failed to provide sound-proofing material that was fire resistant when he knew the intended use of the product;

j) He failed to warn that pyrotechnics could not be safely used in spaces where the foam insulation was installed; and

k) He failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

2176. As a direct and proximate result thereof, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to her untimely death and ultimately she died.

2177. As a further direct and proximate result thereof, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which she would have otherwise been able to enjoy and in which she would have participated.

2178. As a further direct and proximate result thereof, the death of the plaintiff decedent, who was a forty (40) year-old woman, destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

2179. As a result of her death, the Estate of Lori Durante incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

**COUNT THREE HUNDRED TWELVE**
**By Paul and Betty Roe, Individually**
**for Loss of Consortium**
**(Negligence)**

2180. Paragraphs One (1) through Two Thousand One Hundred Seventy-Nine (2,179) are incorporated as if more fully set forth herein.

2181. As a result of the use of the foam, as aforesaid, the Plaintiffs, Paul and Betty Roe, parents of the Plaintiff Decedent, were and will in the future be deprived of the support, services, care, society, affection, companionship and consortium of the Plaintiff Decedent.

**CLAIMS AGAINST JEFFERY DERDERIAN, MICHEAL DERDERIAN AND DERCO, LLC, d/b/a THE STATION**

**COUNT THREE HUNDRED THIRTEEN**
**By Paul and Betty Roe, as Co-Administrators**
**to the Estate of Lori K. Durante**
**(Negligence)**

2182. Paragraphs One (1)through Two Thousand One Hundred Eighty-One (2,181) are incorporated as if more fully set forth herein.

2183. The defendants Jeffrey Derderian, Michael Derderian, and/or DERCO, LLC, d/b/a The Station and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting death of Ms. Durante in one or more of the following respects, in that they:

a) Failed to properly manage, control, supervise and/or inspect The Station night-club prior to and during the Great White concert;

b) Installed highly flammable and toxic foam material around the stage of the night-club and failed to ensure that the sound-proofing material was fire resistant, in violation of R.I. Gen. Laws Section 23.28.6-15;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to install, maintain, or inspect proper emergency lighting and exit signs that were operable in the event of fire or power outage, in violation of R.I. Gen. Laws Section 23-28.6-13;

f) Failed to adequately inspect The Station for safety hazards;

g) Failed to install sprinklers or other fire prevention apparatus at The Station;

h) Failed to provide adequate exits and failed to inform patrons of The Station of the location of fire exits or require personnel present to do so;

i) Allowed unsafe numbers of persons on the premises during the Great White performance;

j) Allowed The Station to become overcrowded with patrons during performances;

k) Caused or allowed the parking of vehicles in an area around The Station structure so as to impede safe egress in the event of a fire;

l) Caused or allowed uneven floor surfaces in The Station which constituted a tripping hazard;

m) Knew or should have known of the dangerous conditions at The Station and failed to remedy those conditions; and

n) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

2184. As a result of the negligence, carelessness and statutory violations of said defendants, as aforesaid, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to her untimely death and ultimately she died.

2185. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which she would have otherwise been able to enjoy and in which she would have participated.

2186. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the death of the plaintiff decedent, who was a forty (40) year-old woman, destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

2187. As a result of her death, the Estate of Lori K. Durante incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

**COUNT THREE HUNDRED FOURTEEN**
**By Paul and Betty Roe, Individually**
**Loss of Consortium**
**(Negligence)**

2188. Paragraphs One (1) through Two Thousand One Hundred Seventy-Four are incorporated as if more fully set forth herein.

2189. As a result of the aforesaid negligence, the Plaintiffs, Paul and Betty Roe, parents of the Plaintiff Decedent, were and will in the future be deprived of the support, services, care, society, affection, companionship and consortium of the Plaintiff Decedent.

## CLAIMS AGAINST MANIC MUSIC MANAGEMENT, INC

### COUNT THREE HUNDRED FIFTEEN
**By Paul and Betty Roe, as Co-Administrators to the Estate of Lori K. Durante (Negligence)**

2190. Paragraphs One (1) through Two Thousand One Hundred Eighty-Ninety (2,189) are incorporated as if more fully set forth herein.

2191. The defendant Manic Music Management, Inc. and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting death of Ms. Durante in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3; and

e) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

2192. As a result of the negligence, carelessness and statutory violations of said defendant, as aforesaid, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to her untimely death and ultimately she died.

2193. As a further result of the negligence, carelessness, and statutory violations of the defendant, as aforesaid, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which she would have otherwise been able to enjoy and in which she would have participated.

2194. As a further result of the negligence, carelessness, and statutory violations of the defendant, as aforesaid, the death of the plaintiff decedent, who was a forty (40) year-old woman, destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

2195. As a result of her death, the Estate of Lori Durante incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

**COUNT THREE HUNDRED SIXTEEN**
**By Paul and Betty Roe, Individual**
**Loss of Consortium**
**(Negligence)**

2196. Paragraphs One (1) through Two Thousand One Hundred Ninety-Five (2,195) are incorporated as if more fully set forth herein.

2197. As a result of the use of the foam, as aforesaid, the Plaintiffs, Paul and Betty Roe, parents of the Plaintiff Decedent, were and will in the future be deprived of the support, services, care, society, affection, companionship and consortium of the Plaintiff Decedent.

**CLAIMS AGAINST JACK RUSSELL, MARK KENDALL, DAVID FILICE, ERIC POWER, d/b/a GREAT WHITE**

**COUNT THREE HUNDRED SEVENTEEN**
**By Paul and Betty Roe, as Co-Administrators to the Estate of Lori K. Durante (Negligence)**

2198. Paragraphs One (1)through Two Thousand One Hundred Ninety-Seven (2,197) are incorporated as if more fully set forth herein.

2199. The defendants Jack Russell, Mark Kendall, David Filice, Eric Powers, and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting death of Mr. Durante in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3; and

e) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

2200. As a result of the negligence, carelessness and statutory violations of said defendants, as aforesaid, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to her untimely death and ultimately she died.

2201. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which she would have otherwise been able to enjoy and in which she would have participated.

2202. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the death of the plaintiff decedent, who was a forty (40) year-old woman, destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

2203. As a result of her death, the Estate of Lori Durante incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

**COUNT THREE HUNDRED EIGHTEEN**
**By Paul and Betty Roe, Individually**
**Loss of Consortium**
**(Negligence)**

2204. Paragraphs One (1) through Two Thousand Two Hundred Three (2,203) are incorporated as if more fully set forth herein.

2205. As a result of the aforesaid negligence, the Plaintiffs, Paul and Betty Roe, parents of the Plaintiff Decedent, were and will in the future be deprived of the support, services, care, society, affection, companionship and consortium of the Plaintiff Decedent.

## CLAIMS AGAINST DANIEL BICHELE

## COUNT THREE HUNDRED NINETEEN
**By Paul and Betty Roe, as Co-Administrators to the Estate of Lori K. Durante (Negligence)**

2206. Paragraphs One (1) through Two Thousand Two Hundred Seven (2,205) are incorporated as if more fully set forth herein.

2207. The defendant Daniel Bichele and/or his agents, servants, or employees, is liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting death of Ms. Durante in one or more of the following respects, in that he or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Negligently activated dangerous pyrotechnic devices in an overcrowded night-club where it could easily ignite toxic flammable sound-proofing insulation on the walls and ceiling; and

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

2208. As a result of the negligence, carelessness and statutory violations of said defendant, as aforesaid, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to her untimely death and ultimately she died.

2209. As a further result of the negligence, carelessness, and statutory violations of the defendant, as aforesaid, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which she would have otherwise been able to enjoy and in which she would have participated.

2210. As a further result of the negligence, carelessness, and statutory violations of the defendant, as aforesaid, the death of the plaintiff decedent, who was a forty (40) year-old man, destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

2211. As a result of her death, the Estate of Lori Durante incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

**COUNT THREE HUNDRED TWENTY**
**By Paul and Betty Roe, Individually**
**Loss of Consortium**
**(Negligence)**

2212. Paragraphs One (1) through Two Thousand Two Hundred Eleven (2,211) are incorporated as if more fully set forth herein.

2213. As a result of the aforesaid negligence, the Plaintiffs, Paul and Betty Roe, parents of the Plaintiff Decedent, were and will in the future be deprived of the support, services, care, society, affection, companionship and consortium of the Plaintiff Decedent.

**CLAIMS AGAINST PAUL WOOLNOUGH**
**AND KNIGHT RECORDS, INC**

**COUNT THREE HUNDRED TWENTY-ONE**
**By Paul and Betty Roe, as Co-Administrators**
**to the Estate of Lori K. Durante**

2214. Paragraphs One (1) through Two Thousand Two Hundred Thirteen (2,213) are incorporated as if more fully set forth herein.

2215. The defendants Paul Woolnough and/or Knight Records, Inc. and/or his or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting death of Ms. Durante in one or more of the following respects, in that he or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Negligently activated dangerous pyrotechnic devices in an overcrowded night-club where it could easily ignite toxic flammable sound-proofing insulation on the walls and ceiling; and

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

2216. As a result of the negligence, carelessness and statutory violations of said defendants, as aforesaid, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to her untimely death and ultimately she died.

2217. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which she would have otherwise been able to enjoy and in which she would have participated.

2218. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the death of the plaintiff decedent, who was a forty (40) year-old woman, destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

2219. As a result of her death, the Estate of Lori K. Durante incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

**COUNT THREE HUNDRED TWENTY-TWO**
**By Paul and Betty Roe, Individually**
**Loss of Consortium**
**(Negligence)**

2220. Paragraphs One (1) through Two Thousand Two Hundred Nineteen (2,210) are incorporated as if more fully set forth herein.

2221. As a result of the aforesaid negligence, the Plaintiffs, Paul and Betty Roe, parents of the Plaintiff Decedent, were and will in the future be deprived of the support, services, care, society, affection, companionship and consortium of the Plaintiff Decedent.

**CLAIMS AGAINST ANHEUSER-BUSCH, INC.**

**COUNT THREE HUNDRED TWENTY-THREE**
**By Paul and Betty Roe, as Administrators**
**to the Estate of Lori K. Durante**
**(Negligence)**

2222. Paragraphs One (1)through Two Thousand Two Hundred Twenty-One( 2,221) are incorporated as if more fully set forth herein.

2223. The defendant Anheuser-Busch, Inc. stood to profit, monetarily or through increased brand awareness, from its sponsorship of and marketing efforts at the Great White concert at The Station on February 20, 2003.

2224. The defendant Anheuser-Busch, Inc., by and through its marketing and promotional activities, including distribution of specially-prepared beer and tickets to the Great White concert, caused or contributed to the dangerous overcrowding at The Station on February 20, 2003.

2225. The defendant Anheuser-Busch, Inc. and/or its agents, servants, or employees, is liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting death of Ms. Durante in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities; and

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

2226. As a result of the negligence, carelessness and statutory violations of said defendants, as aforesaid, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to her untimely death and ultimately she died.

2227. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which she would have otherwise been able to enjoy and in which she would have participated.

2228. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the death of the plaintiff decedent, who was a forty (40) year-old woman, destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

2229. As a result of her death, the Estate of Lori K. Durante incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

**COUNT THREE HUNDRED TWENTY-FOUR**
**By Paul and Betty Roe, Individually**
**(Loss of Consortium**
**(Negligence)**

2230. Paragraphs One (1) through Two Thousand Two Hundred Twenty-Nine (2,229) are incorporated as if more fully set forth herein.

2231. As a result of the aforesaid negligence, the Plaintiffs, Paul and Betty Roe, parents of the Plaintiff Decedent, were and will in the future be deprived of the support, services, care, society, affection, companionship and consortium of the Plaintiff Decedent.

## CLAIMS AGAINST MCLAUGHLIN & MORAN, INC.

### COUNT THREE HUNDRED TWENTY-FIVE
**By Paul and Betty Roe, as Co-Administrators to the Estate of Lori K. Durante (Negligence)**

2232. Paragraphs One (1) through Two Thousand Two Hundred Thirty-One (2,231) are incorporated as if more fully set forth herein.

2233. The defendant McLaughlin & Moran, Inc. stood to profit, monetarily or through increased brand awareness, from its sponsorship of and marketing efforts at the Great White concert at The Station on February 20, 2003.

2234. The defendant McLaughlin & Moran, Inc., by and through its marketing and promotional activities, including distribution of specially-prepared beer and promotional tickets to the Great White concert, caused or contributed to the dangerous overcrowding at The Station on February 20, 2003.

2235. The defendant McLaughlin & Moran, Inc. and/or its agents, servants, or employees, is liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting death of Ms Durante in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities; and

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

2236. As a result of the negligence, carelessness and statutory violations of said defendants, as aforesaid, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to her untimely death and ultimately she died.

2237. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which she would have otherwise been able to enjoy and in which she would have participated.

2238. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the death of the plaintiff decedent, who was a forty (40) year-old woman, destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

2239. As a result of her death, the Estate of Lori Durante incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

**COUNT THREE HUNDRED TWENTY-SIX**
**By Paul and Betty Roe, Individually**
**Loss of Consortium**
**(Negligence)**

2240. Paragraphs One (1) through Two Thousand Two Hundred Thirty-Nine (2,239) are incorporated as if more fully set forth herein.

2241. As a result of the use of the foam, as aforesaid, the Plaintiffs, Paul and Betty Roe, parents of the Plaintiff Decedent, were and will in the future be deprived of the support, services, care, society, affection, companionship and consortium of the Plaintiff Decedent.

## CLAIMS AGAINST CLEAR CHANNEL COMMUNICATIONS, INC d/b/a WHJY-FM

## COUNT THREE HUNDRED TWENTY-SEVEN
**By Paul and Betty Roe, as Co-Administrators to the Estate of Lori K. Durante (Negligence)**

2242. Paragraphs One (1) through Two Thousand Two Hundred Forty-One (2,241) are incorporated as if more fully set forth herein.

2243. The defendant Clear Channel Communications, Inc., d/b/a WHJY-FM stood to profit, monetarily or through increased brand awareness, from its sponsorship of and marketing efforts at the Great White concert at The Station on February 20, 2003.

2244. The defendant Clear Channel Communications, Inc., d/b/a WHJY-FM by and through their marketing and promotional activities, including distribution of promotional tickets to the Great White concert, caused or contributed to the dangerous overcrowding at The Station on February 20, 2003.

2245. The defendant Clear Channel Communications, Inc.d/b/a WHJY-FM and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting death of Ms. Durante in one or more of the following respects, in that they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities; and

f) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

2246. As a result of the negligence, carelessness and statutory violations of said defendant, as aforesaid, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to her untimely death and ultimately she died.

2247. As a further result of the negligence, carelessness, and statutory violations of the defendant, as aforesaid, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which she would have otherwise been able to enjoy and in which she would have participated.

2248. As a further result of the negligence, carelessness, and statutory violations of the defendant, as aforesaid, the death of the plaintiff decedent, who was a forty(40) year-old woman, destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

2249. As a result of her death, the Estate of Lori Duarte incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

**COUNT THREE HUNDRED TWENTY-EIGHT**
**By Paul and Betty Roe, Individually**
**Loss of Consortium**
**(Negligence)**

2250. Paragraphs One (1) through Two Thousand Two Hundred Forty-Nine (2,249) are incorporated as if more fully set forth herein.

2251. As a result of the aforesaid negligence, the Plaintiffs, Paul and Betty Roe, parents of the Plaintiff Decedent, were and will in the future be deprived of the support, services, care, society, affection, companionship and consortium of the Plaintiff Decedent.

**CLAIMS AGAINST LUNA TECH, INC**
**AND LUNA TECH PYROTECHNIC, GMBH**

**COUNT THREE HUNDRED TWENTY-NINE**
**By Paul and Betty Roe, as Co-Administrators**
**to the Estate of Lori K. Durante**
**(Negligence)**

2252. Paragraphs One (1 )through Two Thousand two Hundred Fifty-One (2,251) are incorporated as if more fully set forth herein.

2253. The defendants Luna Tech, Inc. and Luna Tech Pyrotechnic, GMBH, and/or their agents, servants, or employees, are liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the devices were highly flammable and could not be safely used by bands in night-clubs;

b) They sold said devices to bands and represented that said devices were safe for their intended uses;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the devices; and

e) They failed to warn that pyrotechnics could not be safely used in night-clubs or similar spaces where flammable foam insulation was installed;

2254. As a direct and proximate result thereof, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to her untimely death and ultimately she died.

2255. As a further direct and proximate result thereof, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which she would have otherwise been able to enjoy and in which she would have participated.

2256. As a further direct and proximate result thereof, the death of the plaintiff decedent, who was a forty (40) year-old woman, destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

2257. As a result of her death, the Estate of Lori Durnate incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

**COUNT THREE HUNDRED THIRTY**
**By Paul and Betty Roe, Individually**
**Loss of Consortium**
**(Negligence)**

2258. Paragraphs One (1) through Two Thousand Two Hundred Fifty-Seven (2,257 ) are incorporated as if more fully set forth herein.

2259. As a result of the manufacturing, sale and use of the aforesaid, the Plaintiffs, Paul and Betty Roe, parents of the Plaintiff Decedent, were and will in the future be deprived of the support, services, care, society, affection, companionship and consortium of the Plaintiff Decedent.

**COUNT THREE HUNDRED THIRTY-ONE**
**By Paul and Betty Roe, as Co-Administrators**
**to the Estate of Lori K. Durante**
**(Strict Products Liability)**

2260. Paragraphs One (1) through Two Thousand Two Hundred Fifty-Nine (2,259) are incorporated as if more fully set forth herein.

2261. The defendants Luna Tech, Inc. and Luna Tech Pyrotechnic, GMBH, and/or their agents, servants, or employees, are strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the devices were highly flammable and could not be safely used by bands in night-clubs;

b) They sold said devices to bands and represented that said devices were safe for their intended uses;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the devices; and

e) They failed to warn that pyrotechnics could not be safely used in night-clubs or similar spaces where flammable foam insulation was installed;

2262. As a direct and proximate result thereof, the plaintiff's decedent suffered excruciating and continual mental and physical pain and distress prior to her untimely death and ultimately she died.

2263. As a further direct and proximate result thereof, the plaintiff's decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which she would have otherwise been able to enjoy and in which she would have participated.

2264. As a further direct and proximate result thereof, the death of the plaintiff decedent, who was a forty (40) year-old woman, destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

2265. As a result of her death, the Estate of Lori Durante incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

**COUNT THREE HUNDRED THIRTY-TWO**
**By Paul and Betty Roe, Individually**
**Loss of Consortium**
**(Strict Product Liability)**

2266. Paragraphs One (1) through Two Thousand Two Hundred Sixty-Five (2,265) are incorporated as if more fully set forth herein.

2267. As a result of the use of the foam, as aforesaid, the Plaintiffs, Paul and Betty Roe, parents of the Plaintiff Decedent, were and will in the future be deprived of the support, services, care, society, affection, companionship and consortium of the Plaintiff Decedent.

**CLAIMS AGAINST JOINT VENTURE LIABILITY AS TO JEFFREY DERDERIAN, MICHAEL DERDERIAN, AND DERCO LLC D/B/ATHE STATION, MANIC MUSIC MANAGEMENT, INC., JACK RUSSELL, MARK KENDALL, DAVID FILICE, ERIC POWERS, DANIEL BICHIELE, PAUL WOOLNOUGH, KNIGHT RECORDS, INC., ANHEUSER- BUSCH, INC., MCLAUGHLIN & MORAN, INC., CLEAR CHANNEL COMMUNICATIONS, INC. D/B/A WHJY-FM MOTIVA ENTERPRISES, LLC AND SHELL OIL COMPANY, TOWN OF WEST WARWICK, DENNIS LAROCQUE, STATE OF RHODE ISLAND AND IRVING J. OWENS**

**COUNT THREE HUNDRED THIRTY-THREE**
**By Paul and Betty Roe, as Co-Administrators to the Estate of Lori K. Durante**

2268. Paragraphs One (1) through Two Thousand Two Hundred Sixty-Seven (2,267) are incorporated as if more fully set forth herein.

2269. Prior to the Great White concert that occurred on February 20, 2003, the defendants Jeffrey Derderian, Michael Derderian, and DERCO LLC d/b/a The Station, Manic Music Management, Inc., Jack Russell, Mark Kendall, David Filice, Eric Powers, Daniel Bichiele, Paul Woolnough, Knight Records, Inc., Anheuser-Busch Inc., McLaughlin & Moran, Inc., Clear Channel Communications, Inc., d/b/a WHJY-FM, and Motiva Enterprises, LLC and Shell Oil Company, Town of West Warwick, Dennis Larocque, State of Rhode Island and Irving J. Owens, entered into an express or implied agreement for the common purpose and design of planning, endorsing, sponsoring, promoting, and/or advertising the concert.

2270. The defendants joined and participated in this joint venture for the purpose of pursuing their common business interests and for economic gain.

2271. Each of the participating defendants had a right to voice concerns regarding the event and each controlled certain aspects of the planning, endorsement, sponsorship, promotion, and/or advertising relating to the Great White concert, including but not limited to the selection and inspection of the venue, The Station.

2272. The defendants, and/or their agents, servants, employees and/or contractors acting within the course and scope of their employment or agency, owed a legal duty to the Plaintiffs and are liable and legally responsible for the injuries, damages, and deaths resulting from negligent, careless and/or reckless acts or omissions in planning, endorsing, sponsoring, promoting and/or advertising the Great White concert that occurred on February 20, 2003, in one or more of the following respects:

a) Failed to properly manage, control, supervise and/or inspect The Station night-club prior to and during the Great White concert;

b) Installed or permitted to be installed highly flammable and toxic foam material around the stage of the night-club and failed to ensure that the sound-proofing material was fire resistant, in violation of R.I. Gen. Laws Section 23.28.6-15;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to inspect proper emergency lighting and exit signs that were operable in the event of fire or power outage, in violation of R.I. Gen. Laws Section 23-28.6-13;

f) Failed to adequately inspect The Station for safety hazards, or negligently performed same;

g) Failed to inspect for sprinklers or other fire prevention equipment and apparatus at The Station;

h) Failed to provide adequate exits and failed to inform patrons of The Station of the location of fire exits or require personnel present to do so;

i) Allowed unsafe numbers of persons on the premises during the Great White performance;

j) Allowed The Station to become overcrowded with patrons during performances;

k) Caused or allowed the parking of vehicles in an area around The Station structure so as to impede safe egress in the event of a fire;

l) Caused or allowed uneven floor surfaces in The Station which constituted a tripping hazard;

m) Knew or should have known of the dangerous conditions at The Station and failed to remedy those conditions;

n) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station; and

o) Were otherwise negligent in their selection and/or inspection of the venue for the Great White concert, The Station.

2273. As a result of the negligence, carelessness and statutory violations of said defendants, as aforesaid, the Plaintiff's Decedent suffered excruciating and continual mental and physical pain and distress prior to her untimely death and ultimately she died.

2274. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the Plaintiff's Decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which she would have otherwise been able to enjoy and in which she would have participated.

2275. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the death of the Plaintiff Decedent, who was a forty (40) year-old woman, destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

2276. As a result of her death, the Estate of Lori Durante has incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

**COUNT THREE HUNDRED THIRTY-FOUR**
**By Paul and Betty Roe, Individually**
**Loss of Consortium**
**(Negligence)**

2277. Paragraphs One (1) through Two Thousand Two Hundred Seventy-Six (2,276) incorporated as if more fully set forth herein.

2278. As a result of the manufacturing, sale and use of the pyrotechnics, as aforesaid, the Plaintiffs, Paul and Betty Roe, parents of the Plaintiff Decedent, were and will in the future be deprived of the support, services, care, society, affection, companionship and consortium of the Plaintiff Decedent.

**CLAIMS AGAINST SHELL OIL CORPORATION**
**AND MOTIVA ENTERPRISES, LLC**

**COUNT THREE HUNDRED THIRTY-FIVE**
**By Paul and Betty, Roe, as Co-Administrators**
**to the Estate of Lori K. Durante**
**(Negligence)**

2279. Paragraphs One (1) through Two Thousand Two Hundred Seventy-Eight (2,278) are hereby incorporated as more fully set forth herein.

2280. Upon information and belief, the defendant, Shell Oil Company, d/b/a Motiva Enterprises, LLC, was the owner/lessor of certain property located at 7380 Post Road, North Kingstown, Rhode Island.

2281. Upon information and belief, defendant DERCO LLC was the manager and lessee of the aforesaid property owned by, the defendant, Shell Oil Company, d/b/a Motiva Enterprises, LLC.

2282. Upon information and belief, the defendant Shell Oil Company dominated, controlled and/or managed the practices, policies and finances of Motiva, LLC and the gas station operation at the 7380 Post Road facility, including but not limited to exercising joint control over the management, inventory, marketing, promotions, and pricing policies

2283. The defendants Shell Oil Company and Motiva Enterprises, LLC owed a legal duty to patrons of The Station because they engaged in the promotion of the Great White performance at The Station by distributing certain tickets in return for certain purchases of its merchandise, which promotion was expressly or impliedly approved by Shell Oil Company and its subsidiary Motiva Enterprises, LLC in negligent disregard for the safety of the anticipated patrons at the performance.

2284. The defendants Shell Oil Company and Motiva Enterprises, LLC endorsed, sponsored, promoted, and/or advertised the Great White concert and stood to profit monetarily these activities and marketing efforts.

2285. Upon information and belief, the defendants Shell Oil Company and Motiva Enterprises, LLC expressly and/or impliedly represented and warranted to the public through its marketing, promotional activities and ticket sales that the venue selected for the show was reasonably safe and would not subject patrons to an unreasonable risk of serious injury or death.

2286. The defendants, Shell Oil Company and Motiva Enterprises, LLC, knew or should have known that, if the venue for the performance did not have adequate fire protection and suppression equipment, that patrons would be subjected to a foreseeable, unreasonable risk of injury or even death.

2287. The defendants, Shell Oil Company and Motiva Enterprises, LLC, knew or should have known that members of the public, including the Plaintiff's Decedent, were relying on it to exercise proper care, skill and diligence in the review and selection of a safe venue for concerts for which it sold tickets.

2288. The defendants Shell Oil Company and Motiva Enterprises, LLC were negligent and careless in the manner in which they engaged in the promotion of the aforesaid performance, which negligence and carelessness caused the injuries and damages as hereinafter set forth.

2289. The defendants Shell Oil Company and Motiva Enterprises, LLC through its agents, servants, employees or contractors acting within the course and scope of their employment or agency, owed a legal duty to the Plaintiff and is liable and legally responsible for negligence in causing the death of the Plaintiff's Decedent in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the nightclub;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the nightclub in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the nightclub by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities;

f) Failed to properly and adequately review, inspect and approve The Station as a safe venue for members of the public;

g) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

h) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions;

i) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics; and

j) Attached its name to the event, thereby inducing patrons to attend the event because of the credibility given to the event by use of the name Shell Oil.

2290. As a result of the negligence, carelessness and statutory violations of said defendants, as aforesaid, the Plaintiff's Decedent suffered excruciating and continual mental and physical pain and distress prior to her untimely death and ultimately she died.

2291. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the Plaintiff's Decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which she would have otherwise been able to enjoy and in which she would have participated.

2292. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the death of the Plaintiff's Decedent, who was a forty (40) year-old woman, destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

2293. As a result of her death, the Estate of Lori Durante incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

**COUNT THREE HUNDRED THIRTY-SIX**
**By Paul and Betty Roe, Individually**
**Loss of Consortium**
**(Negligence)**

2294. Paragraphs One (1) through Two Thousand Two Hundred Ninety-Three (2,293) are incorporated as if more fully set forth herein.

2295. As a result of the manufacturing, sale and use of the pyrotechnics aforesaid, the Plaintiffs, Paul and Betty Roe, parents of the Plaintiff Decedent, were and will in the future be deprived of the support, services, care, society, affection, companionship and consortium of the Plaintiff Decedent.

**CLAIMS AGAINST TOWN OF WEST WARWICK**
**AND FIRE MARSHAL IRVING J. OWENS**

**COUNT THREE HUNDRED THIRTY-SEVEN**
**By Paul an Betty Roe, as Co-Administrators**
**to the Estate of Lori K. Durante**
**(Negligence)**

2296. Paragraphs One (1) through Two Thousand Two Hundred Ninety-Five (2,295) are incorporated as more fully set forth herein.

2297. The Town of West Warwick and its Fire Inspector, Dennis Larocque, are responsible for the inspection of commercial facilities in the Town of West Warwick and enforcement of the building and fire code laws of the State of Rhode Island.

2298. The Town of West Warwick and Fire Inspector, Dennis Larocque, owed a legal duty to the public in general and the patrons of The Station in particular to exercise reasonable care and due diligence by properly inspecting commercial properties in the Town of West Warwick.

2299. The Town of West Warwick and Fire Inspector, Dennis Larocque, were negligent and careless in failing to properly inspect the Station and enforce the laws of the State of Rhode Island, which negligence and carelessness proximately caused the injuries and damages as hereinafter set forth.

2300. The Town is liable for the negligence of its agents, servants, and employees, and owed a special duty to each Plaintiff.

2301. The Town of West Warwick and Fire Inspector, Dennis Larocque, through its agents, servants, and employees were negligent and careless in one or more of the following ways, in that they:

a) Failed to enforce the building code and fire safety laws of the State of Rhode Island;

b) Failed to adequately inspect The Station;

c) Failed to conduct regular inspections of The Station;

d) Failed to discover and take action for the highly flammable and toxic materials existing on the premises of The Station, which materials should have been discovered by a reasonable inspection;

e) Failed to properly train personnel in fire safety laws, regulations and standards;

f) Failed to require sprinkler systems or other fire prevention devices at The Station;

g) Failed to employ adequate employees and/or personnel to adequately enforce the fire safety laws, regulations and standards;

h) Failed to appropriate adequate funds for the enforcement of fire safety laws, regulations and standards;

i) Knew or should have known of the use of pyrotechnics at The Station and failed to take action to prevent the same when it was unsafe to use pyrotechnics under the circumstances;

j) Failed to enforce Section 23-28-18-4 of the Rhode Island General Laws by failing to ensure that The Station, which provided performances to more than seventy-five (75) people, was free from combustible debris; and

k) Failed to require that The Station limit the number of patrons on the premises to a safe number of patrons.

2302. As a result of the negligence, carelessness and statutory violations of said defendants, as aforesaid, the Plaintiff's Decedent suffered excruciating and continual mental and physical pain and distress prior to her untimely death and ultimately she died.

2303. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the Plaintiff's Decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which she would have otherwise been able to enjoy and in which she would have participated.

2304. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the death of the Plaintiff's Decedent, who was a forty (40) year-old woman, destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

2305. As a result of her death, the Estate of Lori Durante incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

2306. The Fire Inspector, Dennis Larocque, is entitled to indemnity by the Town of West Warwick, pursuant to Section 45-15-16 of the Rhode Island General Laws.

2307. Pursuant to Section 45-15-5 of the Rhode Island General Laws, the Plaintiffs have provided the Town of West Warwick with a valid Notice of Presentment of Claim, and more than forty (40) days have passed since said notice was provided.

**COUNT THREE HUNDRED THIRTY-EIGHT**
**By Paul and Betty Roe, Individually**
**Loss of Consortium**
**(Negligence)**

2308. Paragraphs One (1) through Two Thousand Three Hundred Seven (2,307) are incorporated as if more fully set forth herein.

2309. As a result of the aforesaid negligence, the Plaintiffs, Paul and Betty Roe, parents of the Plaintiff Decedent, were and will in the future be deprived of the support, services, care, society, affection, companionship and consortium of the Plaintiff Decedent.

**CLAIMS AGAINST STATE OF RHODE ISLAND**
**AND FIRE MARSHAL, IRVING J. OWENS**

**COUNT THREE HUNDRED THIRTY-NINE**
**By Paul and Betty Roe, as Co-Administrators**
**to the Estate of Lori K. Durante**
**(Negligence)**

2310. Paragraphs One (1) through Two Thousand Three Hundred Nine (2,309) are incorporated as more fully set forth herein.

2311. The State of Rhode Island and its Fire Marshal, Irving J. Owens, are responsible for the inspection of commercial facilities in the Town of West Warwick and enforcement of the building and fire code laws of the State of Rhode Island.

2312. Pursuant to Section 23-28.2-4 of the Rhode Island General Laws, the State of Rhode Island and Fire Marshal, Irving J. Owens, owed a legal duty to the public in general and the patrons of The Station in particular to exercise reasonable care and due diligence by properly inspecting or causing proper inspections commercial properties in the Town of West Warwick, and to enforce and perform the duties required by the Fire Safety Code.

2313. The State and Fire Marshal were negligent and careless in failing to properly inspect the Station and enforce the laws of the State of Rhode Island, which negligence and carelessness proximately caused the injuries and damages as hereinafter set forth.

2314. The State and Fire Marshal are liable for the negligence of its agents, servants, and employees, and owed a special duty to each Plaintiff.

2315. The State and Fire Marshal, through their agents, servants, and employees were negligent and careless in one or more of the following ways, in that they:

a) Failed to enforce the building code and fire safety laws of the State of Rhode Island;

b) Failed to adequately inspect The Station;

c) Failed to conduct regular inspections of The Station;

d) Failed to discover and take action for the highly flammable and toxic materials existing on the premises of The Station, which materials should have been discovered by a reasonable inspection;

e) Failed to properly train personnel in fire safety laws, regulations and standards;

f) Failed to require sprinkler systems or other fire prevention devices at The Station;

g) Failed to employ adequate employees and/or personnel to adequately enforce the fire safety laws, regulations and standards;

h) Failed to appropriate adequate funds for the enforcement of fire safety laws, regulations and standards;

i) Knew or should have known of the use of pyrotechnics at The Station and failed to take action to prevent the same when it was unsafe to use pyrotechnics under the circumstances;

j) Failed to enforce Section 23-28-18-4 of the Rhode Island General Laws by failing to ensure that The Station, which provided performances to more than seventy-five (75) people, was free from combustible debris; and

k) Failed to require that The Station limit the number of patrons on the premises to a safe number of patrons.

2316. As a result of the negligence, carelessness and statutory violations of said defendants, as aforesaid, the Plaintiff's Decedent suffered excruciating and continual mental and physical pain and distress prior to her untimely death and ultimately she died.

2317. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the Plaintiff's Decedent will forever be prohibited from participating in all that life has to offer and has suffered a loss of the enjoyment of life's pleasures, which she would have otherwise been able to enjoy and in which she would have participated.

2318. As a further result of the negligence, carelessness, and statutory violations of the defendants, as aforesaid, the death of the Plaintiff's Decedent, who was a forty (40) year-old woman, destroyed her ability to earn income and enjoy her family and friends, resulting in substantial loss and damage to her estate.

2319. As a result of her death, the Estate of Lori Durante, incurred medical and funeral and burial expenses, as well as the cost of administering her estate.

2320. The Fire Marshal, Irving J. Owens, is entitled to indemnity by the Town of West Warwick pursuant to Section 23-28.2-17 of the Rhode Island General Laws.

2321. Pursuant to Section 45-15-5 of the Rhode Island General Laws, the Plaintiffs have provided the Town of West Warwick with a valid Notice of Presentment of Claim, and more than forty (40) days have passed since said notice was provided.

**COUNT THREE HUNDRED FORTY**
**By Paul and Betty Roe, Individually**
**Loss of Consortium**
**(Negligence)**

2322. Paragraphs One (1) through Two Thousand Three Hundred Twenty-One (2,321) are incorporated as if more fully set forth herein.

2323. As a result of the aforesaid negligence, the Plaintiffs, Paul and Betty Roe, parents of the Plaintiff Decedent, were and will in the future be deprived of the support, services, care, society, affection, companionship and consortium of the Plaintiff Decedent. consortium of the Plaintiff Decedent.

**CLAIMS AGAINST AMERICAN FOAM CORPORATION**

**COUNT THREE HUNDRED FORTY-ONE**
**By Daniel Davidson**
**(Negligence)**

2324. Paragraphs One (1) through Two Thousand Three Hundred Twenty-Three (2,323 ) are hereby incorporated as if fully set forth herein.

2325. The defendant, American Foam Corporation, and/or its agents, servants, or employees are liable and legally responsible for negligence which was a proximate cause of the injuries and damages resulting from sale and use of the foam insulation product in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

2326. As a direct and proximate result thereof, the plaintiff, Daniel Davidson, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

2327. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature.

2328. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, suffered severe emotional trauma due to the fear that he was going to be burned and/or crushed to death. He has suffered from nightmares, flashbacks, and night sweats.

2329. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

**COUNT THREE HUNDRED FORTY-TWO**
**By Daniel Davidson**
**(Strict Products Liability)**

2330. Paragraphs One (1) through Two Thousand Three Hundred Twenty-Nine (2,329) are hereby incorporated as if fully set forth herein.

2331. The defendant, American Foam Corporation, and/or its agents, servants, or employees, are strictly liable and legally responsible for the injuries and damages resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

2332. As a direct and proximate result thereof, the plaintiff, Daniel Davidson, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

2333. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature.

2334. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, suffered severe emotional trauma due to the fear that he was going to be burned and/or crushed to death. He has suffered from nightmares, flashbacks, and night sweats.

2335. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

**CLAIMS AGAINST FOAMEX INTERNATIONAL**

**COUNT THREE HUNDRED FORTY-THREE**
**By Daniel Davidson**
**(Negligence)**

2336. Paragraphs One (1) through Two Thousand Three Hundred Thirty-Five (2,335) are hereby incorporated as if fully set forth herein.

2337. The defendant, Foamex International, and/or its agents, servants, or employees, owed a legal duty to the Plaintiffs and are liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from manufacturing, sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

2338. As a direct and proximate result thereof, the plaintiff, Daniel Davidson, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

2339. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature.

2340. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, suffered severe emotional trauma due to the fear that he was going to be burned and/or crushed to death. He has suffered from nightmares, flashbacks, and night sweats.

2341. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

**COUNT THREE HUNDRED FORTY-FOUR**
**By Daniel Davidson**
**(Strict Products Liability)**

2342. Paragraphs One (1) through Two Thousand Three Hundred Forty-One (2,341) are hereby incorporated as if fully set forth herein.

2343. The aforesaid product was not altered or modified in any way by the users or any third party from the condition in which it was manufactured and sold.

2344. At all times relevant herein, said substance was expected to and did reach the users without substantial change in condition in which it was sold or manufactured.

2345. The defendant, Foamex International, is a product seller.

2346. The defendant, Foamex International, and/or its agents, servants, or employees, are strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

2347. As a direct and proximate result thereof, the plaintiff, Daniel Davidson, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

2348. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature.

2349. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, suffered severe emotional trauma due to the fear that he was going to be burned and/or crushed to death. He has suffered from nightmares, flashbacks, and night sweats.

2350. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

## CLAIMS AGAINST BARRY H. WARNER

## COUNT THREE HUNDRED FORTY-FIVE
**By Daniel Davidson**
**(Negligence)**

2351. Paragraphs One (1) through Two Thousand Three Hundred Fifty (2,351) are hereby incorporated as if fully set forth herein.

2352. The defendant, Barry H. Warner, is liable and legally responsible for negligence which was a proximate cause of the injuries and damages resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) He placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) He represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) He failed to provide proper and appropriate warnings to product users;

d) He knew or should have known of the dangerous propensities of said foam yet sold it with reckless disregard for the safety of the public, including the plaintiff's decedent;

e) He breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose;

f) He breached its express warranty that said foam was safe and effective for use;

g) He provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

h) He failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

i) He failed to provide sound-proofing material that was fire resistant when he knew the intended use of the product;

j) He failed to warn that pyrotechnics could not be safely used in spaces where the foam insulation was installed; and

k) He failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

2353. As a direct and proximate result thereof, the plaintiff, Daniel Davidson, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

2354. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

2355. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

2356. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

**COUNT THREE HUNDRED FORTY-SIX**
**By Daniel Davidson**
**(Strict Products Liability)**

2357. Paragraphs One (1) through Two Thousand Three Hundred Fifty-Six (2,356 ) are hereby incorporated as if fully set forth herein.

2358. At all times relevant hereto, the defendant, Barry H. Warner, was employed by American Foam Corporation and was acting in the course and scope of his employment.

2359. Prior to February 20, 2003, the defendant, Barry H. Warner, sold the foam material to the defendants, Jeffery Derderian, Michael Derderian, and/or DERCO, d/b/a/ The Station, to be used as sound-proofing material at the former Station night-club and represented to said defendants that the foam could be safely and appropriately used as sound-proofing material when he knew or should have known that in fact the foam was highly flammable and toxic and could not be safely used for sound-proofing in a night-club where smoking and use of pyrotechnics was permitted.

2360. The defendant, Barry H. Warner, is strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) He placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) He represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) He failed to provide proper and appropriate warnings to product users;

d) He knew or should have known of the dangerous propensities of said foam yet sold it with reckless disregard for the safety of the public, including the plaintiff's decedent;

e) He breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose;

f) He breached its express warranty that said foam was safe and effective for use;

g) He provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

h) He failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

i) He failed to provide sound-proofing material that was fire resistant when he knew the intended use of the product;

j) He failed to warn that pyrotechnics could not be safely used in spaces where the foam insulation was installed; and

k) He failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

2361. As a direct and proximate result thereof, the plaintiff, Daniel Davidson, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

2362. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

2363. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

2364. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

**CLAIMS AGAINST JEFFREY DERDERIAN, MICHAEL DERDERIAN AND DERCO, LLC, d/b/a THE STATION**

**COUNT THREE HUNDRED FORTY-SEVEN**
**By Daniel Davidson**
**(Negligence)**

2365. Paragraphs One (1) through Two Thousand Three Hundred Sixty-Four (2,364) are hereby incorporated as if fully set forth herein.

2366. The defendants, Jeffrey Derderian, Michael Derderian, and/or DERCO, LLC., d/b/a The Station, and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries of Christopher Scott in one or more of the following respects, in that they:

a) Failed to properly manage, control, supervise and/or inspect The Station night-club prior to and during the Great White concert;

b) Installed highly flammable and toxic foam material around the stage of the night-club and failed to ensure that the sound-proofing material was fire resistant, in violation of R.I. Gen. Laws Section 23.28.6-15;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to install, maintain, or inspect proper emergency lighting and exit signs that were operable in the event of fire or power outage, in violation of R.I. Gen. Laws Section 23-28.6-13;

f) Failed to adequately inspect The Station for safety hazards;

g) Failed to install sprinklers or other fire prevention apparatus at The Station;

h) Failed to provide adequate exits and failed to inform patrons of The Station of the location of fire exits or require personnel present to do so;

i) Allowed unsafe numbers of persons on the premises during the Great White performance;

j) Allowed The Station to become overcrowded with patrons during performances;

k) Caused or allowed the parking of vehicles in an area around The Station structure so as to impede safe egress in the event of a fire;

l) Caused or allowed uneven floor surfaces in The Station which constituted a tripping hazard;

m) Knew or should have known of the dangerous conditions at The Station and failed to remedy those conditions; and

n) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

2367. As a direct and proximate result thereof, the plaintiff, Daniel Davidson, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

2368. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

2369. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

2370. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

## CLAIMS AGAINST MANIC MUSIC MANAGEMENT, INC.

### COUNT THREE HUNDRED FORTY-EIGHT
**By Daniel Davidson**
**(Negligence)**

2371. Paragraphs One (1) through Two Thousand Three Hundred Seventy (2,370) are hereby incorporated as if fully set forth herein.

2372. The defendant, Manic Music Management, Inc., and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries of Glenn Johnson in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3; and

e) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

2373. As a direct and proximate result thereof, the plaintiff, Daniel Davidson, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

2374. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

2375. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

2376. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

**CLAIMS AGAINST JACK RUSSELL, MARK KENDALL, DAVID FILICE ERIC POWERS, a/k/a GREAT WHITE**

**COUNT THREE HUNDRED FORTY-NINE**
**By Daniel Davidson**
**(Negligence)**

2377. Paragraphs One (1) through Two Thousand Three Hundred Seventy-Six (2,376) are hereby incorporated as if fully set forth herein.

2378. The defendants, Jack Russell, Mark Kendall, David Filice, Eric Powers, and/or their agents, servants or employees are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and losses of Christopher Scott in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3; and

e) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

2379. As a direct and proximate result thereof, the plaintiff, Daniel Davidson, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

2380. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

2381. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

2382. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

**CLAIMS AGAINST DANIEL BICHELE**

**COUNT THREE HUNDRED FIFTY**
**By Daniel Davidson**
**(Negligence)**

2383. Paragraphs One (1) through Two Thousand Three Hundred Eighty-Two (2,382) are hereby incorporated as if fully set forth herein.

2384. The defendant, Daniel Bichele, and/or his agents, servants, or employees, is liable or legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and losses of Christopher Scott in one or more of the respects, in that he or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Negligently activated dangerous pyrotechnic devices in an overcrowded night-club where it could easily ignite toxic flammable sound-proofing insulation on the walls and ceiling; and

f) Failed to protect the plaintiff and other members of the public from the foreseeable risk of serious injury or death at The Station.

2385. As a direct and proximate result thereof, the plaintiff, Daniel Davidson, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

2386. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

2387. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

2388. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

## CLAIMS AGAINST PAUL WOOLNOUGH AND KNIGHT RECORDS, INC.

## COUNT THREE HUNDRED FIFTY-ONE
**By Daniel Davidson**
**(Negligence)**

2389. Paragraphs One (1) through Two Thousand Three Hundred Eighty-Eight (2,388) are hereby incorporated as if fully set forth herein.

2390. The defendants, Paul Woolnough and/or Knight Records, Inc., and/or his or their agents, servants, or employees, are liable or legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and losses of Christopher Scott in one or more of the respects, in that he or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Negligently activated dangerous pyrotechnic devices in an overcrowded night-club where it could easily ignite toxic flammable sound-proofing insulation on the walls and ceiling; and

f) Failed to protect the plaintiff and other members of the public from the foreseeable risk of serious injury or death at The Station.

2391. As a direct and proximate result thereof, the plaintiff, Daniel Davidson, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

2392. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

2393. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

2394. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

## CLAIMS AGAINST ANHEUSER-BUSCH, INC.

## COUNT THREE HUNDRED FIFTY-TWO
**By Daniel Davidson**
**(Negligence)**

2395. Paragraphs One (1) through Two Thousand Three Hundred Eighty- (2,38 ) are hereby incorporated as if fully set forth herein.

2396. The defendant, Anheuser-Busch, Inc., and/or its agents, servants, or employees, is liable or legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and losses of Christopher Scott in one or more of the respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities; and

f) Failed to protect the plaintiff and other members of the public from the foreseeable risk of serious injury or death at The Station.

2397. As a direct and proximate result thereof, the plaintiff, Daniel Davidson, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

2398. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

2399. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

2400. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

## CLAIMS AGAINST MCLAUGHLIN & MORAN, INC.

## COUNT THREE HUNDRED FIFTY-THREE
**By Daniel Davidson**
**(Negligence)**

2401. Paragraphs One (1) through Two Thousand Four Hundred (2,400) are hereby incorporated as if fully set forth herein.

2402. The defendant, McLaughlin & Moran, Inc., and/or its agents, servants, or employees, is liable or legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and losses of Christopher Scott in one or more of the respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities; and

f) Failed to protect the plaintiff and other members of the public from the foreseeable risk of serious injury or death at The Station.

2403. As a direct and proximate result thereof, the plaintiff, Daniel Davidson, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

2404. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

2405. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

2406. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

## CLAIMS AGAINST CLEAR CHANNEL COMMUNICATIONS, INC

### COUNT THREE HUNDRED FIFTY-FOUR
**By Daniel Davidson**
**(Negligence)**

2407. Paragraphs One (1) through Two Thousand Four Hundred Six (2,406) are hereby incorporated as if fully set forth herein.

2408. The defendant, Clear Channel Communications, Inc., d/b/a WHJY-FM, and/or their agents, servants, or employees, are liable or legally responsible for negligence in causing the fire at

The Station night-club and the resulting injuries and losses of Christopher Scott in one or more of the respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities; and

f) Failed to protect the plaintiff and other members of the public from the foreseeable risk of serious injury or death at The Station.

2409. As a direct and proximate result thereof, the plaintiff, Daniel Davidson, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

2410. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

2411. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

2412. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

## CLAIMS AGAINST LUNA TECH, INC. AND LUNA TECH PYROTECHNIC, GMBH

## COUNT THREE HUNDRED FIFTY-FIVE

**By Daniel Davidson**

**(Negligence)**

2413. Paragraphs One (1) through Two Thousand Four Hundred Twelve (2,412) are hereby incorporated as if fully set forth herein.

2414. The defendants, Luna Tech, Inc. and Luna Tech Pyrotechnic, GMBH, and/or their agents, servants, or employees, are liable or legally responsible for negligence which as the proximate cause of the injuries, damages and losses of the plaintiff, Daniel Davidson, resulting from manufacturing, sale and use of the pyrotechnics product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the devices were highly flammable and could not be safely used by bands in night-clubs;

b) They sold said devices to bands and represented that said devices were safe for their intended uses;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the devices; and

e) They failed to warn that pyrotechnics could not be safely used in night-clubs or similar spaces where flammable foam insulation was installed.

2415. As a direct and proximate result thereof, the plaintiff, Daniel Davidson, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

2416. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

2417. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

2418. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

**COUNT THREE HUNDRED FIFTY-SIX**
**By Daniel Davidson**
**(Strict Products Liability)**

2419. Paragraphs One (1) through Two Thousand Four Hundred Eighteen(2,418 ) are hereby incorporated as if fully set forth herein.

2420. The defendants, Luna Tech, Inc. and Luna Tech Pyrotechnic, GMBH, and/or their agents, servants, or employees, are strictly liable or legally responsible for the injuries, damages and losses of the plaintiff, Christopher Scott, resulting from manufacturing, sale and use of the pyrotechnics product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the devices were highly flammable and could not be safely used by bands in night-clubs;

b) They sold said devices to bands and represented that said devices were safe for their intended uses;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the devices; and

e) They failed to warn that pyrotechnics could not be safely used in night-clubs or similar spaces where flammable foam insulation was installed.

2421. As a direct and proximate result thereof, the plaintiff, Daniel Davidson, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

2422. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

2423. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

2424. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

**CLAIMS AGAINST JOINT VENTURE LIABILITY AS TO JEFFREY DERDERIAN, MICHAEL DERDERIAN, AND DERCO LLC D/B/A THE STATION, MANIC MUSIC MANAGEMENT, INC., JACK RUSSELL, MARK KENDALL, DAVID FILICE, ERIC POWERS, DANIEL BICHIELE, PAUL WOOLNOUGH, KNIGHT RECORDS, INC., ANHEUSER- BUSCH, INC., MCLAUGHLIN & MORAN, INC., CLEAR CHANNEL COMMUNICATIONS, INC., D/B/A WHJY-FM, MOTIVA ENTERPRISES, LLC., AND SHELL OIL COMPANY AND TOWN OF WESTWARWICK AND THE STATE OF RHODE ISLAND**

**COUNT THREE HUNDRED FIFTY-SEVEN**
**By Daniel Davidson**
**(Negligence)**

2425. Paragraphs One (1) through Two Thousand Four Hundred Twenty-Four (2,424) are hereby incorporated as if fully set forth herein.

2426. Prior to the Great White concert that occurred on February 20, 2003, the defendants, Jeffrey Derderian, Michael Derderian, and DERCO LLC. d/b/a The Station, Manic Music Management, Inc., Jack Russell, Mark Kendall, David Filice, Eric Powers, Daniel Bichiele, Paul Woolnough, Knight Records, Inc., Anheuser-Busch, Inc., McLaughlin & Moran, Inc., Clear Channel Communications, Inc., d/b/a WHJY-FM, and Motiva Enterprises, LLC and Shell Oil Company and The Town of West Warwick and State of Rhode Island, entered into an express or implied agreement for the common purpose and design of planning, endorsing, sponsoring, promoting, and/or advertising the concert.

2427. The defendants joined and participated in this joint venture for the purpose of pursuing their common business interests and for economic gain.

2428. Each of the participating defendants had a right to voice concerns regarding the event and each controlled certain aspects of the planning, endorsement, sponsorship, promotion, and/or advertising relating to the Great White concert, including but not limited to the selection and inspection of the venue, The Station.

2429. The defendants, and/or their agents, servants, employees and/or contractors acting within the course and scope of their employment or agency, owed a legal duty to the Plaintiffs and are liable and legally responsible for the injuries, damages, and deaths resulting from negligent, careless and/or reckless acts or omissions in planning, endorsing, sponsoring, promoting and/or advertising the Great White concert that occurred on February 20, 2003, in one or more of the following respects:

a) Failed to properly manage, control, supervise and/or inspect The Station night-club prior to and during the Great White concert;

b) Installed or permitted to be installed highly flammable and toxic foam material around the stage of the night-club and failed to ensure that the sound-proofing material was fire resistant, in violation of R.I. Gen. Laws Section 23.28.6-15;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to inspect proper emergency lighting and exit signs that were operable in the event of fire or power outage, in violation of R.I. Gen. Laws Section 23-28.6-13;

f) Failed to adequately inspect The Station for safety hazards, or negligently performed same;

g) Failed to inspect for sprinklers or other fire prevention equipment and apparatus at The Station;

h) Failed to provide adequate exits and failed to inform patrons of The Station of the location of fire exits or require personnel present to do so;

i) Allowed unsafe numbers of persons on the premises during the Great White performance;

j) Allowed The Station to become overcrowded with patrons during performances;

k) Caused or allowed the parking of vehicles in an area around The Station structure so as to impede safe egress in the event of a fire;

l) Caused or allowed uneven floor surfaces in The Station which constituted a tripping hazard;

m) Knew or should have known of the dangerous conditions at The Station and failed to remedy those conditions;

n) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station; and

o) Were otherwise negligent in their selection and/or inspection of the venue for the Great White concert, The Station.

2430. As a direct and proximate result thereof, the plaintiff, Daniel Davidson, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

2431. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

2432. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

2433. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

**CLAIMS AGAINST SHELL OIL CORPORATION AND MOTIVA ENTERPRISES, LLC.**

**COUNT THREE HUNDRED FIFTY-EIGHT**
**By Daniel Davidson**
**(Negligence)**

2434. Paragraphs One (1) through Two Thousand Four Hundred (2,42 ) are hereby incorporated as if fully set forth herein.

2435. Upon information and belief, the defendant, Shell Oil Company, d/b/a Motiva Enterprises, LLC., was the owner/lessor of certain property located at 7380 Post Road, North Kingstown, Rhode Island.

2436. Upon information and belief, defendant, DERCO LLC., was the manager and lessee of the aforesaid property owned by, the defendant, Shell Oil Company, d/b/a Motiva Enterprises, LLC.

2437. Upon information and belief, the defendant, Shell Oil Company, dominated, controlled and/or managed the practices, policies and finances of Motiva, LLC. and the gas station operation at the 7380 Post Road facility, including but not limited to exercising joint control over the management, inventory, marketing, promotions, and pricing policies.

2438. The defendants, Shell Oil Company and Motiva Enterprises, LLC., owed a legal duty to patrons of The Station because they engaged in the promotion of the Great White performance at The Station by distributing certain tickets in return for certain purchases of its merchandise, which promotion was expressly or impliedly approved by Shell Oil Company and its subsidiary Motiva Enterprises, LLC. in negligent disregard for the safety of the anticipated patrons at the performance.

2439. The defendants, Shell Oil Company and Motiva Enterprises, LLC., endorsed, sponsored, promoted, and/or advertised the Great White concert and stood to profit monetarily these activities and marketing efforts.

2440. Upon information and belief, the defendants, Shell Oil Company and Motiva Enterprises, LLC., expressly and/or impliedly represented and warranted to the public through its marketing, promotional activities and ticket sales that the venue selected for the show was reasonably safe and would not subject patrons to an unreasonable risk of serious injury or death.

2441. The defendants, Shell Oil Company and Motiva Enterprises, LLC., knew or should have known that, if the venue for the performance did not have adequate fire protection and suppression equipment, that patrons would be subjected to a foreseeable, unreasonable risk of injury or even death.

2442. The defendants, Shell Oil Company and Motiva Enterprises, LLC., knew or should have known that members of the public, including the Plaintiff's Decedent, were relying on it to exercise proper care, skill and diligence in the review and selection of a safe venue for concerts for which it sold tickets.

2443. The defendants, Shell Oil Company and Motiva Enterprises, LLC., were negligent and careless in the manner in which they engaged in the promotion of the aforesaid performance, which negligence and carelessness caused the injuries and damages as hereinafter set forth.

2444. The defendants, Shell Oil Company and Motiva Enterprises, LLC., through its agents, servants, employees or contractors acting within the course and scope of their employment or agency, owed a legal duty to the Plaintiff and is liable and legally responsible for negligence in causing the death of the Plaintiff's Decedent in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the nightclub;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the nightclub in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the nightclub by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities;

f) Failed to properly and adequately review, inspect and approve The Station as a safe venue for members of the public;

g) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

h) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions;

i) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics; and

j) Attached its name to the event, thereby inducing patrons to attend the event because of the credibility given to the event by use of the name Shell Oil.

2445. As a direct and proximate result thereof, the plaintiff, Daniel Davidson, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

2446. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

2447. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

2448. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

## CLAIMS AGAINST TOWN OF WEST WARWICK AND FIRE INSPECTOR, DENNIS LAROCQUE

## COUNT THREE HUNDRED FIFTY-NINE
**By Daniel Davidson**
**(Negligence)**

2449. Paragraphs One (1) through Two Thousand Four Hundred Forty-Eight (2,448) are hereby incorporated as if fully set forth herein.

2450. The Town of West Warwick and its Fire Inspector, Dennis Larocque, are responsible for the inspection of commercial facilities in the Town of West Warwick and enforcement of the building and fire code laws of the State of Rhode Island.

2451. The Town of West Warwick and Fire Inspector, Dennis Larocque, owed a legal duty to the public in general and the patrons of The Station in particular to exercise reasonable care and due diligence by properly inspecting commercial properties in the Town of West Warwick.

2452. The Town of West Warwick and Fire Inspector, Dennis Larocque, were negligent and careless in failing to properly inspect the Station and enforce the laws of the State of Rhode Island, which negligence and carelessness proximately caused the injuries and damages as hereinafter set forth.

2453. The Town is liable for the negligence of its agents, servants, and employees, and owed a special duty to each Plaintiff.

2454. The Town of West Warwick and Fire Inspector, Dennis Larocque, through its agents, servants, and employees were negligent and careless in one or more of the following ways, in that they:

a) Failed to enforce the building code and fire safety laws of the State of Rhode Island;

b) Failed to adequately inspect The Station;

c) Failed to conduct regular inspections of The Station;

d) Failed to discover and take action for the highly flammable and toxic materials existing on the premises of The Station, which materials should have been discovered by a reasonable inspection;

e) Failed to properly train personnel in fire safety laws, regulations and standards;

f) Failed to require sprinkler systems or other fire prevention devices at The Station;

g) Failed to employ adequate employees and/or personnel to adequately enforce the fire safety laws, regulations and standards;

h) Failed to appropriate adequate funds for the enforcement of fire safety laws, regulations and standards;

i) Knew or should have known of the use of pyrotechnics at The Station and failed to take action to prevent the same when it was unsafe to use pyrotechnics under the circumstances;

j) Failed to enforce Section 23-28-18-4 of the Rhode Island General Laws by failing to ensure that The Station, which provided performances to more than seventy-five (75) people, was free from combustible debris; and

k) Failed to require that The Station limit the number of patrons on the premises to a safe number of patrons.

2455. As a direct and proximate result thereof, the plaintiff, Daniel Davidson, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

2456. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

2457. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

2458. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

2459. The Fire Inspector, Dennis Larocque, is entitled to indemnity by the Town of West Warwick, pursuant to Section 45-15-16 of the Rhode Island General Laws.

2460. Pursuant to Section 45-15-5 of the Rhode Island General Laws, the Plaintiffs have provided the Town of West Warwick with a valid Notice of Presentment of Claim, and more than forty (40) days have passed since said notice was provided.

**CLAIMS AGAINST STATE OF RHODE ISLAND**
**AND FIRE MARSHAL, IRVING J. OWENS**

**COUNT THREE HUNDRED SIXTY**
**By Daniel Davidson**
**(Negligence)**

2461. Paragraphs One (1) through Two Thousand Four Hundred Sixty (2,460) are hereby incorporated as if fully set forth herein.

2462. The State of Rhode Island and its Fire Marshal, Irving J. Owens, are responsible for the inspection of commercial facilities in the Town of West Warwick and enforcement of the building and fire code laws of the State of Rhode Island.

2463. Pursuant to Section 23-28.2-4 of the Rhode Island General Laws, the State of Rhode Island and Fire Marshal, Irving J. Owens, owed a legal duty to the public in general and the patrons of The Station in particular to exercise reasonable care and due diligence by properly inspecting or causing proper inspections commercial properties in the Town of West Warwick, and to enforce and perform the duties required by the Fire Safety Code.

2464. The State and Fire Marshal were negligent and careless in failing to properly inspect the Station and enforce the laws of the State of Rhode Island, which negligence and carelessness proximately caused the injuries and damages as hereinafter set forth.

2465. The State and Fire Marshal are liable for the negligence of its agents, servants, and employees, and owed a special duty to each Plaintiff.

2466. The State and Fire Marshal, through their agents, servants, and employees were negligent and careless in one or more of the following ways, in that they:

a) Failed to enforce the building code and fire safety laws of the State of Rhode Island;

b) Failed to adequately inspect The Station;

c) Failed to conduct regular inspections of The Station;

d) Failed to discover and take action for the highly flammable and toxic materials existing on the premises of The Station, which materials should have been discovered by a reasonable inspection;

e) Failed to properly train personnel in fire safety laws, regulations and standards;

f) Failed to require sprinkler systems or other fire prevention devices at The Station;

g) Failed to employ adequate employees and/or personnel to adequately enforce the fire safety laws, regulations and standards;

h) Failed to appropriate adequate funds for the enforcement of fire safety laws, regulations and standards;

i) Knew or should have known of the use of pyrotechnics at The Station and failed to take action to prevent the same when it was unsafe to use pyrotechnics under the circumstances;

j) Failed to enforce Section 23-28-18-4 of the Rhode Island General Laws by failing to ensure that The Station, which provided performances to more than seventy-five (75) people, was free from combustible debris; and

k) Failed to require that The Station limit the number of patrons on the premises to a safe number of patrons.

2467. As a direct and proximate result thereof, the plaintiff, Daniel Davidson, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

2468. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

2469. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

2470. As a further direct and proximate result thereof, the plaintiff, Daniel Davidson, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

2471. The Fire Marshal, Irving J. Owens, is entitled to indemnity by the Town of West Warwick pursuant to Section 23-28.2-17 of the Rhode Island General Laws.

2472. Pursuant to Section 45-15-5 of the Rhode Island General Laws, the Plaintiffs have provided the Town of West Warwick with a valid Notice of Presentment of Claim, and more than forty (40) days have passed since said notice was provided.

## CLAIMS AGAINST AMERICAN FOAM CORPORATION

## COUNT THREE HUNDRED SIXTY-ONE
**by Stephen Bruno**
**(Negligence)**

2473. Paragraphs One (1) through Two Thousand Four Hundred Seventy-Two (2,473) are incorporated as if more fully set forth herein.

2474. The defendant, American Foam Corporation, and/or its agents, servants, or employees are liable and legally responsible for negligence which was a proximate cause of the injuries and damages resulting from sale and use of the foam insulation product in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

2475. As a direct and proximate result thereof, the plaintiff, Stephen Bruno, was knocked to the ground and stepped on, kicked and crushed sustaining cuts, bruises and contusions about his body. Mr. Bruno was trapped between the exit door and pulled himself out. He further suffered burns. He also suffered an injury to his knee . He was taken to the hospital and treated for these injuries and smoke inhalation damage to his throat and lungs. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature.

2476. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, suffered severe emotional trauma due to the fear that he was going to be burned and/or crushed to death. He has suffered from nightmares, flashbacks, and night sweats.

2477. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

**COUNT THREE HUNDRED SIXTY-TWO**
**By Stephen Bruno**
**(Strict Product Liability)**

2478. Paragraphs One (1) through Two Thousand Four Hundred Seventy -Seven (2,477) are incorporated as if more fully set forth herein.

2479. The defendant American Foam Corporation, and/or its agents, servants, or employees, are strictly liable and legally responsible for the injuries and damages resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

2480. As a direct and proximate result thereof, the plaintiff, Stephen Bruno, was knocked to the ground and stepped on, kicked and crushed sustaining cuts, bruises and contusions about his body. Mr. Bruno was trapped between the exit door and pulled himself out. He further suffered burns. He also suffered an injury to his knee . He was taken to the hospital and treated for these injuries and smoke inhalation damage to his throat and lungs. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature.

2481. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, suffered severe emotional trauma due to the fear that she was going to be burned and/or crushed to death. He has suffered from nightmares, flashbacks, and night sweats.

2482. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

## CLAIMS AGAINST FOAMEX INTERNATIONAL

## COUNT THREE HUNDRED SIXTY-THREE
**By the Stephen Bruno**
**(Negligence)**

2483. Paragraphs One (1)through Two Thousand Four Hundred Eighty-Two (2,482) are incorporated as if more fully set forth herein.

2484. The defendant Foamex International, and/or its agents, servants, or employees, owed a legal duty to the Plaintiffs and are liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from manufacturing, sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

2485. As a direct and proximate result thereof, the plaintiff, Stephen Bruno, suffered serious injuries to his body and person causing him to suffer severe mental and physical pain and distress.

2486. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to his financial loss.

2487. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, lost time from his employment, thereby suffering an economic loss, all to his financial loss.

2488. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

**COUNT THREE HUNDRED SIXTY-FOUR**
**By the Stephen Bruno**
**(Strict Product Liability)**

2489. Paragraphs One(1) through Two Thousand Four Hundred Eighty-Eight (2,488) are incorporated as if more fully set forth herein.

2490. The aforesaid product was not altered or modified in any way by the users or any third party from the condition in which it was manufactured and sold.

2491. At all times relevant herein, said substance was expected to and did reach the users without substantial change in condition in which it was sold or manufactured.

2492. The defendant Foamex International is a product seller.

2493. The defendant Foamex International, and/or its agents, servants, or employees, are strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) They represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the foam;

e) They designed a foam insulation product that could not withstand normal use conditions and could not be used safely without risk of serious injury or death;

f) They knew or should have known of the dangerous propensities of said foam yet continued its manufacture, distribution and sale with reckless disregard for the safety of the public, including the plaintiff's decedent;

g) They breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose, when these warranties were part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-314;

h) They breached its express warranty that said foam was safe and effective for use when this warranty was part of the basis of the bargain as set forth in Rhode Island Gen. Laws Sec. 6(a)-2-313;

i) They provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

j) They failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

k) They failed to issue warnings, recalls, or other similar product information bulletins after they became aware the foam was used for sound-proofing in buildings such as The Station night-club;

l) They failed to ensure that the sound-proofing material was fire resistant;

m) They failed to warn that pyrotechnics could not be safely used in spaces where their foam insulation was installed; and

n) They failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

2494. As a direct and proximate result thereof, the plaintiff, Stephen Bruno, suffered serious injuries to her body and person causing her to suffer severe mental and physical pain and distress.

2495. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno has and will incur expenses for medical treatment including hospitalization, doctors' visits, prescriptions and medicines, all to her financial loss.

2496. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, lost time from her employment, thereby suffering an economic loss, all to her financial loss.

2497. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, has and will continue to suffer emotionally including experiencing flash backs and nightmares.

## CLAIMS AGAINST BARRY H. WARNER

## COUNT THREE HUNDRED SIXTY-FIVE
**By Stephen Bruno**
**(Negligence)**

2497. Paragraphs One (1) through Two Thousand Four Hundred Ninety-Six (2,496) are hereby incorporated as if more fully set forth herein.

2498. At all times relevant hereto, the defendant Barry H. Warner was employed by American Foam Corporation and was acting in the course and scope of her employment.

2499. Prior to February 20, 2003, the defendant Barry H. Warner sold the foam material to the defendant Jeffery Derderian, Michael Derderian, and/or DERCO, LLC, d/b/a The Station to be used as sound-proofing material at the former Station night-club and represented to said defendants that the foam could be safely and appropriately used a s sound-proofing material when he knew or should have known that in fact the foam was highly flammable and toxic and could not be safely used for sound-proofing in the night-club where smoking and use of pyrotechnics was permitted.

2500. The defendant Barry H. Warner is liable and legally responsible for negligence which was a proximate cause of the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) He placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) He represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) He failed to provide proper and appropriate warnings to product users;

d) He knew or should have known of the dangerous propensities of said foam yet sold it with reckless disregard for the safety of the public, including the plaintiff's decedent;

e) He breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose;

f) He breached its express warranty that said foam was safe and effective for use;

g) He provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

h) He failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

i) He failed to provide sound-proofing material that was fire resistant when he knew the intended use of the product;

j) He failed to warn that pyrotechnics could not be safely used in spaces where the foam insulation was installed; and

k) He failed to warn against misus of the product when misuse as sound-proofing was foreseeable.

2501. As a direct and proximate result thereof, the plaintiff, Stephen Bruno, was knocked to the ground and stepped on, kicked and crushed sustaining cuts, bruises and contusions about his body. Mr. Bruno was trapped between the exit door and pulled himself out. He further suffered burns. He also suffered an injury to his knee . He was taken to the hospital and treated for these injuries and smoke inhalation damage to his throat and lungs. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature.

2502. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, suffered severe emotional trauma due to the fear that he was going to be burned and/or crushed to death. He has suffered from nightmares, flashbacks, and night sweats.

2503. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

**COUNT THREE HUNDRED SIXTY- SIX**
**By Stephen Bruno**
**(Strict Products Liability)**

2504. Paragraphs One (1) through Two Thousand Five Hundred Three (2,503) are incorporated as if more fully set forth herein.

2505. At all times relevant hereto, the defendant Barry H. Warner was employed by American Foam Corporation and was acting in the course and scope of his employment.

2506. Prior to February 20, 2003, the defendant Barry H. Warner sold the foam material to the defendants Jeffery Derderian, Michael Derderian, and/or DERCO, d/b/a/ The Station, to be used as sound-proofing material at the former Station night-club and represented to said defendants that the foam could be safely and appropriately used as sound-proofing material when he knew or should have known that in fact the foam was highly flammable and toxic and could not be safely used for sound-proofing in a night-club where smoking and use of pyrotechnics was permitted.

2507. The defendant Barry H. Warner is strictly liable and legally responsible for the injuries, damages, and deaths resulting from sale and use of the foam insulation product, in one or more of the following respects, in that:

a) He placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the foam was highly flammable and toxic and could not be safely used for sound-proofing material;

b) He represented to the general public and consumers that said foam insulation was safe for use as sound-proofing material;

c) He failed to provide proper and appropriate warnings to product users;

d) He knew or should have known of the dangerous propensities of said foam yet sold it with reckless disregard for the safety of the public, including the plaintiff's decedent;

e) He breached the implied warranty of merchantability and fitness in that said foam was not of merchantable quality or fit for its intended purpose;

f) He breached its express warranty that said foam was safe and effective for use;

g) He provided, distributed, and/or sold a dangerous foam insulation product when there were safer alternatives available;

h) He failed to follow the product once it was placed into the stream of commerce to see how it performed in actual use conditions;

i) He failed to provide sound-proofing material that was fire resistant when he knew the intended use of the product;

j) He failed to warn that pyrotechnics could not be safely used in spaces where the foam insulation was installed; and

k) He failed to warn against misuse of the product when misuse as sound-proofing was foreseeable.

2508. As a direct and proximate result thereof, the plaintiff, Stephen Bruno, was knocked to the ground and stepped on, kicked and crushed sustaining cuts, bruises and contusions about his body. Mr. Bruno was trapped between the exit door and pulled himself out. He further suffered burns. He also suffered an injury to his knee . He was taken to the hospital and treated for these injuries and smoke inhalation damage to his throat and lungs. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature

2509. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature.

2510. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, suffered severe emotional trauma due to the fear that she was going to be burned and/or crushed to death. He has suffered from nightmares, flashbacks, and night sweats.

2511. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

## CLAIMS AGAINST JEFFREY DERDERIAN, MICHAEL DERDERIAN AND DERCO, LLC, d/b/a THE STATION

## COUNT THREE HUNDRED SIXTY-SEVEN
**By Stephen Bruno**
**(Negligence)**

2512. Paragraphs One (1) through Two Thousand Five Hundred Eleven (2,511) are incorporated as if more fully set forth herein.

2513. The defendants, Jeffrey Derderian, Michael Derderian, and/or DERCO, LLC, d/b/a The Station and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries of Stephen Bruno in one or more of the following respects, in that they:

a) Failed to properly manage, control, supervise and/or inspect The Station night-club prior to and during the Great White concert;

b) Installed highly flammable and toxic foam material around the stage of the night-club and failed to ensure that the sound-proofing material was fire resistant, in violation of R.I. Gen. Laws Section 23.28.6-15;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to install, maintain, or inspect proper emergency lighting and exit signs that were operable in the event of fire or power outage, in violation of R.I. Gen. Laws Section 23-28.6-13;

f) Failed to adequately inspect The Station for safety hazards;

g) Failed to install sprinklers or other fire prevention apparatus at The Station;

h) Failed to provide adequate exits and failed to inform patrons of The Station of the location of fire exits or require personnel present to do so;

i) Allowed unsafe numbers of persons on the premises during the Great White performance;

j) Allowed The Station to become overcrowded with patrons during performances;

k) Caused or allowed the parking of vehicles in an area around The Station structure so as to impede safe egress in the event of a fire;

l) Caused or allowed uneven floor surfaces in The Station which constituted a tripping hazard;

m) Knew or should have known of the dangerous conditions at The Station and failed to remedy those conditions; and

n) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

2514. As a direct and proximate result thereof, the plaintiff, Stephen Bruno, was knocked to the ground and stepped on, kicked and crushed sustaining cuts, bruises and contusions about his body. Mr. Bruno was trapped between the exit door and pulled himself out. He further suffered burns. He also suffered an injury to his knee . He was taken to the hospital and treated for these injuries and smoke inhalation damage to his throat and lungs. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature

2515. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature.

2516. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, suffered severe emotional trauma due to the fear that she was going to be burned and/or crushed to death. He has suffered from nightmares, flashbacks, and night sweats.

2517. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

## CLAIMS AGAINST MANIC MUSIC MANAGEMENT, INC

## COUNT THREE HUNDRED SIXTY- EIGHT
**By Stephen Bruno**
**(Negligence)**

2518. Paragraphs One (1)through Two Thousand Five Hundred Seventeen (2,517) are incorporated as if more fully set forth herein.

2519. The defendant, Manic Music Management, Inc. and/or their agents, servants, or employees, are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries of Stephen Bruno in one or more of the following respects, in that it or they:

a) failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3; and

e) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

2520. As a direct and proximate result thereof, the plaintiff, Stephen Bruno, was knocked to the ground and stepped on, kicked and crushed sustaining cuts, bruises and contusions about his body. Mr. Bruno was trapped between the exit door and pulled himself out. He further suffered burns. He also suffered an injury to his knee . He was taken to the hospital and treated for these injuries and smoke inhalation damage to his throat and lungs. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature.

2521. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature.

2522. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, suffered severe emotional trauma due to the fear that he was going to be burned and/or crushed to death. He has suffered from nightmares, flashbacks, and night sweats.

2523. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

**CLAIMS AGAINST JACK RUSSELL, MARK KENDALL, DAVID FILICE ERIC POWERS, d/b/a GREAT WHITE**

**COUNT THREE HUNDRED SIXTY NINE**
**By Stephen Bruno**
**(Negligence)**

2524. Paragraphs One (1) through Two Thousand Five Hundred Twenty-Three (2,523) are incorporated as if more fully set forth herein.

2525. The defendants, Jack Russell, Mark Kendall, David Filice, Eric Powers, and/or their agents, servants or employees are liable and legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and losses of Stephen Bruno in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3; and

e) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station.

2526. As a direct and proximate result thereof, the plaintiff, Stephen Bruno, was knocked to the ground and stepped on, kicked and crushed sustaining cuts, bruises and contusions about his body. Mr. Bruno was trapped between the exit door and pulled himself out. He further suffered burns. He also suffered an injury to his knee . He was taken to the hospital and treated for these injuries and smoke inhalation damage to his throat and lungs. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature

2527. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature.

2528. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, suffered severe emotional trauma due to the fear that she was going to be burned and/or crushed to death. He has suffered from nightmares, flashbacks, and night sweats.

2529. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

## CLAIMS AGAINST DANIEL BICHELE

## COUNT THREE HUNDRED SEVENTY
**By Stephen Bruno**

2530. Paragraphs One (1) through Two Thousand Five Hundred Twenty-Nine (2,529) are incorporated as if more fully set forth herein.

2531. The defendant, Daniel Bichele, and/or his agents, servants, or employees, is liable or legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and losses of Stephen Bruno in one or more of the respects, in that he or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Negligently activated dangerous pyrotechnic devices in an overcrowded night-club where it could easily ignite toxic flammable sound-proofing insulation on the walls and ceiling; and

f) Failed to protect the plaintiff and other members of the public from the foreseeable risk of serious injury or death at The Station

2532. As a direct and proximate result thereof, the plaintiff, Stephen Bruno, was knocked to the ground and stepped on, kicked and crushed sustaining cuts, bruises and contusions about his body. Mr. Bruno was trapped between the exit door and pulled himself out. He further suffered burns. He also suffered an injury to his knee . He was taken to the hospital and treated for these injuries and smoke inhalation damage to his throat and lungs. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature.

2533. She has suffered physical pain and emotional anguish and most likely will suffer the same in the future. Her injuries are permanent in nature.

2534. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, suffered severe emotional trauma due to the fear that he was going to be burned and/or crushed to death. He has suffered from nightmares, flashbacks, and night sweats.

2535. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

## CLAIMS AGAINST PAUL WOOLNOUGH AND KNIGHT RECORDS, INC

## COUNT THREE HUNDRED SEVENTY-ONE

**By Stephen Bruno**

**(Negligence)**

2536. Paragraphs One (1) through Two Thousand Five Hundred Thirty-Five (2,535) are incorporated as if more fully set forth herein.

2537. The defendants, Paul Woolnough and/or Knight Records, Inc. and/or his or their agents, servants, or employees, are liable or legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and losses of Stephen Bruno in one or more of the respects, in that he or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Negligently activated dangerous pyrotechnic devices in an overcrowded night-club where it could easily ignite toxic flammable sound-proofing insulation on the walls and ceiling; and

f) Failed to protect the plaintiff and other members of the public from the foreseeable risk of serious injury or death at The Station.

2538. As a direct and proximate result thereof, the plaintiff, Stephen Bruno, was knocked to the ground and stepped on, kicked and crushed sustaining cuts, bruises and contusions about his body. Mr. Bruno was trapped between the exit door and pulled himself out. He further suffered burns. He also suffered an injury to his knee . He was taken to the hospital and treated for these injuries and smoke inhalation damage to his throat and lungs. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature.

2539. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature.

2540. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, suffered severe emotional trauma due to the fear that he was going to be burned and/or crushed to death. He has suffered from nightmares, flashbacks, and night sweats.

2541. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

## CLAIMS AGAINST ANHEUSER-BUSCH, INC.

## COUNT THREE HUNDRED SEVENTY-TWO
**By Steven Bruno**
**(Negligence)**

2542. Paragraphs One (1) through Two Thousand Five Hundred Forty-One (2,541) are incorporated as if more fully set forth herein.

2543. The defendant, Anheuser-Busch, Inc. and/or its agents, servants, or employees, is liable or legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and losses of Stephen Bruno in one or more of the respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities; and

f) Failed to protect the plaintiff and other members of the public from the foreseeable risk of serious injury or death at The Station.

2544. As a direct and proximate result thereof, the plaintiff, Stephen Bruno, was knocked to the ground and stepped on, kicked and crushed sustaining cuts, bruises and contusions about his body. Mr. Bruno was trapped between the exit door and pulled himself out. He further suffered burns. He also suffered an injury to his knee . He was taken to the hospital and treated for these injuries and smoke inhalation damage to his throat and lungs. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature

2545. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature.

2546. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, suffered severe emotional trauma due to the fear that he was going to be burned and/or crushed to death. He has suffered from nightmares, flashbacks, and night sweats.

2547. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

## CLAIMS AGAINST MCLAUGHLIN & MORAN, INC.

## COUNT THREE HUNDRED SEVENTY THREE
**By Stephen Bruno**
**(Negligence)**

2548. Paragraphs One (1) through Two Thousand Five Hundred Forty Seven (2,547) are incorporated as if more fully set forth herein.

2549. The defendant, McLaughlin & Moran, Inc. and/or its agents, servants, or employees, is liable or legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and losses of Stephen Bruno in one or more of the respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities; and

f) Failed to protect the plaintiff and other members of the public from the foreseeable risk of serious injury or death at The Station.

2550. As a direct and proximate result thereof, the plaintiff, Stephen Bruno, was knocked to the ground and stepped on, kicked and crushed sustaining cuts, bruises and contusions about his body. Mr. Bruno was trapped between the exit door and pulled himself out. He further suffered burns. He also suffered an injury to his knee . He was taken to the hospital and treated for these injuries and smoke inhalation damage to his throat and lungs. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature

2551. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature.

2552. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, suffered severe emotional trauma due to the fear that she was going to be burned and/or crushed to death. He has suffered from nightmares, flashbacks, and night sweats.

2553. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

## CLAIMS AGAINST CLEAR CHANNEL COMMUNICATIONS, INC. d/b/a WHJY-FM

## COUNT THREE HUNDRED SEVENTY-FOUR
**By Stephen Bruno**

2554. Paragraphs One (1) through Two Thousand Five Hundred Fifty-Three (2,553) are incorporated as if more fully set forth herein.

2555. The defendant, Clear Channel Communications, Inc., d/b/a WHJY-FM and/or their agents, servants, or employees, are liable or legally responsible for negligence in causing the fire at The Station night-club and the resulting injuries and losses of Stephen Bruno in one or more of the respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the night-club;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities; and

f) Failed to protect the plaintiff and other members of the public from the foreseeable risk of serious injury or death at The Station.

2556. As a direct and proximate result thereof, the plaintiff, Stephen Bruno, was knocked to the ground and stepped on, kicked and crushed sustaining cuts, bruises and contusions about his body. Mr. Bruno was trapped between the exit door and pulled himself out. He further suffered burns. He also suffered an injury to his knee . He was taken to the hospital and treated for these injuries and smoke inhalation damage to his throat and lungs. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature.

2557. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature.

2558. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, suffered severe emotional trauma due to the fear that he was going to be burned and/or crushed to death. He has suffered from nightmares, flashbacks, and night sweats.

2559. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

## CLAIMS AGAINST LUNA TECH INC. AND LUNA TECH PYROTECHNIC, GMBH

## COUNT THREE HUNDRED SEVENTY- FIVE
**By Stephen Bruno**
**(Negligence)**

2560. Paragraphs One (1) through Two Thousand Five Hundred Fifty-Nine (2,559) are incorporated as if more fully set forth herein.

2561. The defendants, Luna Tech, Inc. and Luna Tech Pyrotechnic, GMBH and/or their agents, servants, or employees, are liable or legally responsible for negligence which was the proximate cause of the injuries, damages and losses of the plaintiff, Stephen Bruno, resulting from manufacturing, sale and use of the pyrotechnics product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the devices were highly flammable and could not be safely used by bands in night-clubs;

b) They sold said devices to bands and represented that said devices were safe for their intended uses;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the devices; and

e) They failed to warn that pyrotechnics could not be safely used in night-clubs or similar spaces where flammable foam insulation was installed.

2562. As a direct and proximate result thereof, the plaintiff, Stephen Bruno, was knocked to the ground and stepped on, kicked and crushed sustaining cuts, bruises and contusions about his body. Mr. Bruno was trapped between the exit door and pulled himself out. He further suffered burns. He also suffered an injury to his knee . He was taken to the hospital and treated for these injuries and smoke inhalation damage to his throat and lungs. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature

2563. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature.

2564. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, suffered severe emotional trauma due to the fear that he was going to be burned and/or crushed to death. He has suffered from nightmares, flashbacks, and night sweats.

2565. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

**COUNT THREE HUNDRED SEVENTY SIX**
**By Stephen Bruno**
**(Strict Products Liability)**

2566. Paragraphs One (1) through Two Thousand Five-Hundred Sixty-Five (2,565) are incorporated as if more fully set forth herein.

2567. The defendants, Luna Tech, Inc. and Luna Tech Pyrotechnic, GMBH and/or their agents, servants, or employees, are strictly liable or legally responsible for the injuries, damages and losses of the plaintiff, Stephen Bruno, resulting from manufacturing, sale and use of the pyrotechnics product, in one or more of the following respects, in that:

a) They placed into the market and into the stream of commerce a product that was defective and unreasonably dangerous in that the devices were highly flammable and could not be safely used by bands in night-clubs;

b) They sold said devices to bands and represented that said devices were safe for their intended uses;

c) They failed to provide proper and appropriate warnings to product users;

d) They failed to properly design, manufacture, assemble, test, label, and market the devices; and

e) They failed to warn that pyrotechnics could not be safely used in night-clubs or similar spaces where flammable foam insulation was installed.

2568. As a direct and proximate result thereof, the plaintiff, Stephen Bruno, was knocked to the ground and stepped on, kicked and crushed sustaining cuts, bruises and contusions about his body. Mr. Bruno was trapped between the exit door and pulled himself out. He further suffered burns. He also suffered an injury to his knee . He was taken to the hospital and treated for these injuries and smoke inhalation damage to his throat and lungs. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature

2569. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature.

2570. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, suffered severe emotional trauma due to the fear that he was going to be burned and/or crushed to death. He has suffered from nightmares, flashbacks, and night sweats.

2571. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

**CLAIMS AGAINST JOINT VENTURE LIABILITY AS TO JEFFREY DERDERIAN, MICHAEL DERDERIAN, AND DERCO LLC D/B/A THE STATION, MANIC MUSIC MANAGEMENT, JACK RUSSELL, MARK KENDALL, DAVID FILICE, ERIC POWERS, DANIEL BICHIELE, PAUL WOOLNOUGH, KNIGHT RECORDS, INC., ANHEUSER-BUSCH, INC., MCLAUGHLIN & MORAN, INC., CLEAR CHANNEL COMMUNICATIONS, INC., D/B/A WHJY-FM, MOTIVA ENTERPRISES, LLC AND SHELL OIL COMPANY AND THE TOWN OF WEST WARWICK AND STATE OF RHODE ISLAND**

**COUNT THREE HUNDRED SEVENTY-SEVEN**
**by Stephen Bruno**
**(Negligence)**

2572. Paragraphs One (1) through Two Thousand Five Hundred Seventy-One (2,571) are incorporated as if more fully set forth herein.

2573. Prior to the Great White concert that occurred on February 20, 2003, the defendants Jeffrey Derderian, Michael Derderian, and DERCO LLC d/b/a The Station, Manic Music Management, Inc., Jack Russell, Mark Kendall, David Filice, Eric Powers, Daniel Bichiele, Paul Woolnough, Knight Records, Inc., Anheuser-Busch, Inc., McLlaughlin & Moran, Inc., Clear Channel Communications, Inc., d/b/a WHJY-FM, Motiva Enterprises, LLC and Shell Oil Company and The Town of West Warwick and State of Rhode Island., entered into an express or implied agreement for the common purpose and design of planning, endorsing, sponsoring, promoting, and/or advertising the concert.

2574. The defendants joined and participated in this joint venture for the purpose of pursuing their common business interests and for economic gain.

2575. Each of the participating defendants had a right to voice concerns regarding the event and each controlled certain aspects of the planning, endorsement, sponsorship, promotion, and/or advertising relating to the Great White concert, including but not limited to the selection and inspection of the venue, The Station.

2576. The defendants, and/or their agents, servants, employees and/or contractors acting within the course and scope of their employment or agency, owed a legal duty to the Plaintiffs and are liable and legally responsible for the injuries, damages, and deaths resulting from negligent, careless and/or reckless acts or omissions in planning, endorsing, sponsoring, promoting and/or advertising the Great White concert that occurred on February 20, 2003, in one or more of the following respects:

a) Failed to properly manage, control, supervise and/or inspect The Station night-club prior to and during the Great White concert;

b) Installed or permitted to be installed highly flammable and toxic foam material around the stage of the night-club and failed to ensure that the sound-proofing material was fire resistant, in violation of R.I. Gen. Laws Section 23.28.6-15;

c) Failed to obtain the necessary permits for the use of pyrotechnics at the night-club in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the night-club by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Failed to inspect proper emergency lighting and exit signs that were operable in the event of fire or power outage, in violation of R.I. Gen. Laws Section 23-28.6-13;

f) Failed to adequately inspect The Station for safety hazards, or negligently performed same;

g) Failed to inspect for sprinklers or other fire prevention equipment and apparatus at The Station;

h) Failed to provide adequate exits and failed to inform patrons of The Station of the location of fire exits or require personnel present to do so;

i) Allowed unsafe numbers of persons on the premises during the Great White performance;

j) Allowed The Station to become overcrowded with patrons during performances;

k) Caused or allowed the parking of vehicles in an area around The Station structure so as to impede safe egress in the event of a fire;

l) Caused or allowed uneven floor surfaces in The Station which constituted a tripping hazard;

m) Knew or should have known of the dangerous conditions at The Station and failed to remedy those conditions;

n) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station; and

o) Were otherwise negligent in their selection and/or inspection of the venue for the Great White concert, The Station.

2577. As a direct and proximate result thereof, the plaintiff, Stephen Bruno, was knocked to the ground and stepped on, kicked and crushed sustaining cuts, bruises and contusions about his body. Mr. Bruno was trapped between the exit door and pulled himself out. He further suffered burns. He also suffered an injury to his knee . He was taken to the hospital and treated for these injuries and smoke inhalation damage to his throat and lungs. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature.

2578. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature.

2579. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, suffered severe emotional trauma due to the fear that he was going to be burned and/or crushed to death. He has suffered from nightmares, flashbacks, and night sweats.

2580. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

## CLAIMS AGAINST SHELL OIL CORPORATION AND MOTIVA ENTERPRISES, LLC

## COUNT THREE HUNDRED SEVENTY-EIGHT
**By Stephen Bruno**
**(Negligence)**

2581. Paragraphs One (1)through Two Thousand Five Hundred Eighty (2,580) are hereby incorporated as more fully set forth herein.

2582. Upon information and belief, the defendant, Shell Oil Company, d/b/a Motiva Enterprises, LLC, was the owner/lessor of certain property located at 7380 Post Road, North Kingstown, Rhode Island.

2583. Upon information and belief, defendant DERCO LLC was the manager and lessee of the aforesaid property owned by, the defendant, Shell Oil Company, d/b/a Motiva Enterprises, LLC.

2584. Upon information and belief, the defendant Shell Oil Company dominated, controlled and/or managed the practices, policies and finances of Motiva, LLC and the gas station operation at the 7380 Post Road facility, including but not limited to exercising joint control over the management, inventory, marketing, promotions, and pricing policies

2585. The defendants Shell Oil Company and Motiva Enterprises, LLC owed a legal duty to patrons of The Station because they engaged in the promotion of the Great White performance at The Station by distributing certain tickets in return for certain purchases of its merchandise, which promotion was expressly or impliedly approved by Shell Oil Company and its subsidiary Motiva Enterprises, LLC in negligent disregard for the safety of the anticipated patrons at the performance.

2586. The defendants Shell Oil Company and Motiva Enterprises, LLC endorsed, sponsored, promoted, and/or advertised the Great White concert and stood to profit monetarily these activities and marketing efforts.

2587. Upon information and belief, the defendants Shell Oil Company and Motiva Enterprises, LLC expressly and/or impliedly represented and warranted to the public through its marketing, promotional activities and ticket sales that the venue selected for the show was reasonably safe and would not subject patrons to an unreasonable risk of serious injury or death.

2588. The defendants, Shell Oil Company and Motiva Enterprises, LLC, knew or should have known that, if the venue for the performance did not have adequate fire protection and suppression equipment, that patrons would be subjected to a foreseeable, unreasonable risk of injury or even death.

2589. The defendants, Shell Oil Company and Motiva Enterprises, LLC, knew or should have known that members of the public, including the Plaintiff's Decedent, were relying on it to exercise proper care, skill and diligence in the review and selection of a safe venue for concerts for which it sold tickets.

2590. The defendants Shell Oil Company and Motiva Enterprises, LLC were negligent and careless in the manner in which they engaged in the promotion of the aforesaid performance, which negligence and carelessness caused the injuries and damages as hereinafter set forth.

2591. The defendants Shell Oil Company and Motiva Enterprises, LLC through its agents, servants, employees or contractors acting within the course and scope of their employment or agency, owed a legal duty to the Plaintiff and is liable and legally responsible for negligence in causing the death of the Plaintiff's Decedent in one or more of the following respects, in that it or they:

a) Failed to properly manage, control, supervise and/or prevent the use or installation of pyrotechnics at The Station night-club prior to and during the Great White concert;

b) Installed or allowed to be installed dangerous pyrotechnic devices around the stage of the nightclub;

c) Failed to obtain or require the necessary permits for the use of pyrotechnics at the nightclub in violation of R.I. Gen. Laws Section 23.28-11.3;

d) Allowed the use of pyrotechnics at the nightclub by persons without the proper permits, in violation of R.I. Gen. Laws Section 23.28-11.3;

e) Contributed to dangerous overcrowding by and through their promotional activities;

f) Failed to properly and adequately review, inspect and approve The Station as a safe venue for members of the public;

g) Failed to protect the decedent and other members of the public from the foreseeable risk of serious injury or death at The Station;

h) Knew or in the exercise of reasonable care should have known of the dangerous propensities of pyrotechnics, and yet failed to take reasonable and necessary precautions;

i) Failed to properly inspect The Station night-club to determine its suitability for use of pyrotechnics; and

j) Attached its name to the event, thereby inducing patrons to attend the event because of the credibility given to the event by use of the name Shell Oil.

2592. As a direct and proximate result thereof, the plaintiff, Stephen Bruno, was knocked to the ground and stepped on, kicked and crushed sustaining cuts, bruises and contusions about his body. Mr. Bruno was trapped between the exit door and pulled himself out. He further suffered burns. He also suffered an injury to his knee . He was taken to the hospital and treated for these injuries and smoke inhalation damage to his throat and lungs. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature.

2593. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature.

2594. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, suffered severe emotional trauma due to the fear that he was going to be burned and/or crushed to death. He has suffered from nightmares, flashbacks, and night sweats.

2595. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

## CLAIMS AGAINST TOWN OF WEST WARWICK AND FIRE INSPECTOR, DENNIS LAROCQUE

## COUNT THREE HUNDRED SEVENTY-NINE

**By Stephen Bruno**

**(Negligence)**

2596. Paragraphs One (1) through Two Thousand Five Hundred Ninety-Four (2,594) are hereby incorporated as more fully set forth herein.

2597. The Town of West Warwick and its Fire Inspector, Dennis Larocque, are responsible for the inspection of commercial facilities in the Town of West Warwick and enforcement of the building and fire code laws of the State of Rhode Island.

2598. The Town of West Warwick and Fire Inspector, Dennis Larocque, owed a legal duty to the public in general and the patrons of The Station in particular to exercise reasonable care and due diligence by properly inspecting commercial properties in the Town of West Warwick.

2599. The Town of West Warwick and Fire Inspector, Dennis Larocque, were negligent and careless in failing to properly inspect the Station and enforce the laws of the State of Rhode Island, which negligence and carelessness proximately caused the injuries and damages as hereinafter set forth.

2600. The Town is liable for the negligence of its agents, servants, and employees, and owed a special duty to each Plaintiff.

2601. The Town of West Warwick and Fire Inspector, Dennis Larocque, through its agents, servants, and employees were negligent and careless in one or more of the following ways, in that they:

a) Failed to enforce the building code and fire safety laws of the State of Rhode Island;

b) Failed to adequately inspect The Station;

c) Failed to conduct regular inspections of The Station;

d) Failed to discover and take action for the highly flammable and toxic materials existing on the premises of The Station, which materials should have been discovered by a reasonable inspection;

e) Failed to properly train personnel in fire safety laws, regulations and standards;

f) Failed to require sprinkler systems or other fire prevention devices at The Station;

g) Failed to employ adequate employees and/or personnel to adequately enforce the fire safety laws, regulations and standards;

h) Failed to appropriate adequate funds for the enforcement of fire safety laws, regulations and standards;

i) Knew or should have known of the use of pyrotechnics at The Station and failed to take action to prevent the same when it was unsafe to use pyrotechnics under the circumstances;

j) Failed to enforce Section 23-28-18-4 of the Rhode Island General Laws by failing to ensure that The Station, which provided performances to more than seventy-five (75) people, was free from combustible debris; and

k) Failed to require that The Station limit the number of patrons on the premises to a safe number of patrons.

2602. As a direct and proximate result thereof, the plaintiff, Stephen Bruno, was knocked to the ground and stepped on, kicked and crushed sustaining cuts, bruises and contusions about his body. Mr. Bruno was trapped between the exit door and pulled himself out. He further suffered burns. He also suffered an injury to his knee . He was taken to the hospital and treated for these injuries and smoke inhalation damage to his throat and lungs. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature.

2603. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature.

2604. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, suffered severe emotional trauma due to the fear that he was going to be burned and/or crushed to death. He has suffered from nightmares, flashbacks, and night sweats.

2605. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

2606. The Fire Inspector, Dennis Larocque, is entitled to indemnity by the Town of West Warwick, pursuant to Section 45-15-16 of the Rhode Island General Laws.

2607. Pursuant to Section 45-15-5 of the Rhode Island General Laws, the Plaintiffs have provided the Town of West Warwick with a valid Notice of Presentment of Claim, and more than forty (40) days have passed since said notice was provided.

## CLAIMS AGAINST STATE OF RHODE ISLAND AND FIRE MARSHAL, IRVING J. OWENS

## COUNT THREE HUNDRED EIGHTY

**By Stephen Bruno**
**(Negligence)**

2608. Paragraphs One (1) through Two Thousand Six Hundred Seven (2,607) are hereby incorporated as more fully set forth herein.

2609. The State of Rhode Island and its Fire Marshal, Irving J. Owens, are responsible for the inspection of commercial facilities in the Town of West Warwick and enforcement of the building and fire code laws of the State of Rhode Island.

2610. Pursuant to Section 23-28.2-4 of the Rhode Island General Laws, the State of Rhode Island and Fire Marshal, Irving J. Owens, owed a legal duty to the public in general and the patrons of The Station in particular to exercise reasonable care and due diligence by properly inspecting or causing proper inspections commercial properties in the Town of West Warwick, and to enforce and perform the duties required by the Fire Safety Code.

2611. The State and Fire Marshal were negligent and careless in failing to properly inspect the Station and enforce the laws of the State of Rhode Island, which negligence and carelessness proximately caused the injuries and damages as hereinafter set forth.

2612. The State and Fire Marshal are liable for the negligence of its agents, servants, and employees, and owed a special duty to each Plaintiff.

2613. The State and Fire Marshal, through their agents, servants, and employees were negligent and careless in one or more of the following ways, in that they:

a) Failed to enforce the building code and fire safety laws of the State of Rhode Island;

b) Failed to adequately inspect The Station;

c) Failed to conduct regular inspections of The Station;

d) Failed to discover and take action for the highly flammable and toxic materials existing on the premises of The Station, which materials should have been discovered by a reasonable inspection;

e) Failed to properly train personnel in fire safety laws, regulations and standards;

f) Failed to require sprinkler systems or other fire prevention devices at The Station;

g) Failed to employ adequate employees and/or personnel to adequately enforce the fire safety laws, regulations and standards;

h) Failed to appropriate adequate funds for the enforcement of fire safety laws, regulations and standards;

i) Knew or should have known of the use of pyrotechnics at The Station and failed to take action to prevent the same when it was unsafe to use pyrotechnics under the circumstances;

j) Failed to enforce Section 23-28-18-4 of the Rhode Island General Laws by failing to ensure that The Station, which provided performances to more than seventy-five (75) people, was free from combustible debris; and

k) Failed to require that The Station limit the number of patrons on the premises to a safe number of patrons.

2614. As a direct and proximate result thereof, the plaintiff, Stephen Bruno, was knocked to the ground and stepped on, kicked and crushed sustaining cuts, bruises and contusions about his body. Mr. Bruno was trapped between the exit door and pulled himself out. He further suffered burns. He also suffered an injury to his knee . He was taken to the hospital and treated for these injuries and smoke inhalation damage to his throat and lungs. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature

2615. He has suffered physical pain and emotional anguish and most likely will suffer the same in the future. His injuries are permanent in nature.

2616. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, suffered severe emotional trauma due to the fear that he was going to be burned and/or crushed to death. He has suffered from nightmares, flashbacks, and night sweats.

2617. As a further direct and proximate result thereof, the plaintiff, Stephen Bruno, has incurred financial losses for medical expenses, including hospitalization, doctors' visits, prescriptions and medicines, and will incur expenses in the future for the same.

2618. The Fire Marshal, Irving J. Owens, is entitled to indemnity by the Town of West Warwick pursuant to Section 23-28.2-17 of the Rhode Island General Laws.

2619. Pursuant to Section 45-15-5 of the Rhode Island General Laws, the Plaintiffs have provided the Town of West Warwick with a valid Notice of Presentment of Claim, and more than forty (40) days have passed since said notice was provided.

WHEREFORE, the Plaintiffs respectfully prays for:

1. Judgement Against the Defendant's as aforesaid in the amount the Jury deems meet and proper.
2. Punitive damages including attorneys' fees;
3. Costs;
4. Such other relief as this Court deems just and equitable; and
5. Trial by Jury.

The plaintiffs demand a jury trial on all issues triable at law.

Dated this 8th day of August, 2003.

Respectfully submitted,

The Plaintiffs,
By their attorneys:
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